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4. *Northern Travel.* By Bayard Taylor. 1 vol. 12mo. London: Sampson Low and Co., 1858.

NORWAY has of late years become a favourite resort of the English tourist, and bids fair to be the Switzerland of the North. Though her mountains are generally less peaked, her glaciers are little inferior in size to those of Chamounix, or of the Bernese Oberland, while her fields of perpetual snow are more extensive and far less explored. In the essential feature of waterfalls she is immeasurably superior to Switzerland or the Tyrol; the falls of the Haudek, or the Giessbach, would be passed by almost unnoticed in a Norwegian "Dal." In Switzerland the valleys are widely scooped out, and the mountain sides sweep grandly down to the plains, while defiles are rarely to be met with, and absolute precipices seldom overhang the path of the traveller. In Norway the whole country consists, not of ridges separated by valleys, but of one vast mountain plateau, rising from three to five thousand feet above the level of the sea, and it is only occasionally that the extreme height of 8000 feet is attained by a few isolated peaks. But the snow-line in Norway is at 4500 feet, while in Switzerland double that altitude is required; and thus in the former country we

have vast levels of the mountain plateau covered with snow, either during the whole year, or only melting in the extreme heats of summer. The valleys of Norway are a succession of deep perpendicular cuts in this great elevated mountain range; they run for miles bounded by absolutely perpendicular cliffs, as if the opposite sides had been rent asunder by some tremendous force. These precipices are often from one to two or three thousand feet in height, and between their walls, a little strip of level ground, constantly encroached upon by the foaming river, is all that affords space for the traveller's progress. Abrupt as these cliffs are, whether on the sea-line in the long "fjords," or bounding the more inland valleys, they are rarely destitute of rich colouring to relieve their monotony of form. Mosses and lichens, flowers and green turf, are everywhere interspersed on the facing of stone; and in every spot where it can find an inch of soil, the graceful pine-tree mingles with the alder and hanging-birch, while the mellow northern light throws a magic glow over the whole. It is this perpetual twilight of the summer nights that so greatly enhances the charm of travel in these northern regions. Throughout all Norway there can hardly be said to be any hour of darkness in the twenty-four during the months of June and July; the sun goes down indeed, but the red light of day continues to gleam far away in the north, till at an early hour, it melts into the hues of sunrise. And now, that steam has opened out the route to the North Cape, the tourist may follow the sun till it sets no more, far away amid the tremendous jagged peaks of the Loffodens, those crests of sunken alps, more rugged and sharp than the very summits of the Alps themselves. In the extent and majesty of its coast scenery, Norway has altogether the advantage over Switzerland; her enormous fjords, running sometimes a hundred miles into the heart of the country, permit the traveller to reach by easy water conveyance, localities otherwise of most difficult access; while her inland lakes and rivers form another link in the chain of communication, which otherwise is but scantily maintained by the few highways that traverse this mountain land. With these attractions for the mere traveller, Norway presents still greater to the sportsman, and hence the youth of England hurry off annually to her rivers and her mountains to enjoy field sports unfettered by game

laws, or by any other restrictions. In their expectations, however, we regret to say, they are too often grievously disappointed. All the really good salmon-rivers have now been occupied and rented by wealthy Englishmen, by men possessed of sufficient funds to rent any river in Scotland or Ireland, but who must needs advance still further, and raise the market to a price unattainable by those of more slender means. Twenty years ago and more, for it was then that we first became acquainted with Norway, matters were in a very different state. Almost every river was then open to the salmon fisher, and the number of travellers in a whole season did not equal that which is now disembarked weekly from a Hull steamer at Christiania during the summer. Norway was then emphatically a primitive country, travellers were rare, and the angler was accompanied along the banks of the stream by a wondering population, admiring the marvellous manufacture of his flies and tackle, and almost incredulous that so slender a line could hold the mighty salmon in his native element. On the great lines of communication all is now changed, but there are still hundreds of streams in this vast country where good fishing may be had without cost, and many a secluded valley, where an Englishman is almost unknown.

Until the commencement of the present century Norway had hardly been visited at all by our countrymen. Edward Daniel Clarke was one of the first pioneers, but he had been preceded by two Germans, both men of science, Hausmann and Von Buch. To these succeeded others, who published accounts of their travels, but all seem to have followed one unvarying route, and to have described nearly the same objects. They landed at Christiania, drove northward up Gulbrandsdal to the Dovrefjeld, which our maps, even to the present day, persist in representing as a mountain ridge, instead of a vast elevated plateau, and then descended to Drontheim, returning by the mines of Røraas to Christiania. Two or three of the most adventurous, and among them we must name Clarke and Von Buch, undertook the perilous boat navigation along the whole of the western coast, from Drontheim to the North Cape. They laboured, however, under great disadvantages. Absolute ignorance of the manners and language of the country, confined them almost entirely to the main route, and prevented them

from obtaining that insight into the habits and traditions of the people, which falls only to the lot of those who can converse with the peasant and the farmer, and partake of their humble fare. In Norway there is now no aristocracy or resident landholder on a large scale. The social system is made up of peasant landholders, dwelling in seclusion on their own farms, and little disposed to observe, or to communicate the peculiarities of their country to strangers.

The first Englishman who may be said to have made himself practically acquainted with Norway, the first who deviated from the beaten track, was that most pleasant traveller, Henry Inglis, who about the year 1826 traversed the southern part of the country, alone and on foot, making his way through pathless wilds, sleeping in the shepherd's huts upon the mountains, and everywhere noting with an observant eye the primitive manners and customs of the isolated population.

He afterwards spent a winter on the Swedish frontier, near Kongsvinger, and has recounted, under the name of Derwent Conway, many curious tales and traditions, the truth of which, though at first disputed, has been confirmed by the observations of the Norwegians themselves. Of the wondrous scenery of the western coast he seems to have known little or nothing, and even of the geographical features of the parts immediately adjacent to those through which he passed, he appears to have obtained but very imperfect information. He spent two days within twenty-four hours' walk of the "Rjukan foss," one of the grandest waterfalls in Norway, but all that he heard of it was a report of a gigantic waterfall, nine hundred feet high, somewhere among the mountains of the district, and this intelligence he was inclined to regard as fabulous. Probably at that time his acquaintance with the language was very slight, for about the same time the scientific Everest reached the Rjukan, and explored, even in mid-winter, the still more wondrous cataract of the Voring, in the Hardanger. The tours of Breton, Milford, Elliott, and Barrow, were either confused or superficial, and it was not till within the last ten years that Norway and its scenery received full justice at the hands of Messrs. Biddulph and Forester. These two gentlemen traversed the southern districts of Norway from coast to coast in various directions, embodying their observations in an

octavo volume, beautifully illustrated, which has ever since been, and will continue to be, a standard work upon the country. Since the publication of this work, almost a library of books on Norway, scientific, sporting, and descriptive, has appeared to gratify the appetite of the reading public. Even ladies have taken the field, and have ventured alone amidst the dangers and discomforts of Norwegian travel. The "Journal of the Unprotected Females in Norway," is accurate in its description of manners and customs, as all ladies are when they write; but its tone is flippant and disagreeable, and the only feminine characteristic about the whole is the authoress's constant terror of wild beasts, from which indeed she was as safe in Norway as in traversing the Scottish Highlands. Very recently the tide of American travel has, singularly enough, turned in the direction of Norway. Until now American travellers have rather sought the ancient centres of civilization than the wild scenery of the forest and the mountain; their tastes do not lead them to be sportsmen, and in knowledge of languages they are as deficient as the English themselves. But Norway possesses for the Americans another peculiar fascination, they have come to look upon it as the ancient cradle of their race. The old Icelandic colonists, who migrated originally from the Norwegian fiords, found their way from the shores of Greenland to Labrador, nearly a thousand years ago, and from thence, as their records plainly testify, they coasted along the eastern side of America, perhaps as far as the peninsula of Florida. It is probable, too, that under the name of Vinland, they effected a temporary settlement in the northern part of the United States; and it is evidently flattering to the vanity of the present inhabitants of those districts to believe, that in their veins there possibly flows some drops of the old sea-king's blood. Hence the American seeks Norway as his mother country; he studies with delight her ancient Sagas and records, too pleased to meet therein with a shadowy notice of his native land, some hundreds of years anterior to its second discovery by Columbus.

Two American travellers, Bayard Taylor and Charles Loring Brace, have published their impressions of Norway. Neither of these writers is altogether free from the usual faults of American authors, there is a certain inflation of style, and vulgarity of expression, too frequent



among our Transatlantic brethren, but both have been diligent observers, and tolerably well acquainted with the language of the country. We need not refer here to Mr. Laing's well-known statistical works on Norway and Sweden, but we would not altogether pass by the simple and beautiful Journal of Sir Charles Anderson, who revisited Norway in 1852. His modest little volume contains the notes written as each scene passed before his eyes, during a journey in Bergenstift, and exhibits a thorough appreciation of scenery, great truth of description, with a slightly Puseyite tendency to church hunting and mediæval antiquities.

In the department of Natural History much has been done by the Norwegians themselves, though the results of their researches, from being embodied in a hardly known language, have remained nearly sealed up to the rest of Europe. Forty years ago Boie of Kiel, a German ornithologist, spent a summer amid the savage scenery of the Loffodens, and published his tour and ornithological observations at Schleswig, in 1822. It is a work of much value, beside its purely scientific matter, but it is almost unknown in England.

Among the few English Naturalists who have recorded their experiences in Norway, Professor James Forbes, of Edinburgh, deserves the precedence. His work entitled "Norway and its Glaciers, 1853," is a fit pendent to his interesting researches among the ice-fields of Switzerland and Savoy. As an accurate description of some of the Norwegian glaciers, and for the beautiful delineations of scenery which accompany the text, it merits the first rank. Within the last few years a new field of Northern travel has been opened up by the establishment of steamboats along the Western coast of Norway to the extreme North, even to the town of Vadsoe, on the Varanger fiord, in the immediate vicinity of the Russian frontier. To Professor Forbes we owe the first vivid description of this extraordinary voyage, where the traveller gradually advances through the most wondrous scenery to the regions of constant daylight, and where, in the neighbourhood of Tromsøe and Hammerfest he can feast his eyes on the midnight sun, and study the manners of the wild Lapp and Finn population of that desolate country.

Of works on Sporting in Norway, we have several, and some of these contain much information beyond mere

records of rivers, or of wonderful successes with the rifle or the salmon rod. Belton's "Two Summers in Norway" first laid before the English public the marvels of the Namsen, while the Rev. Henry Newland's book on "Forest Life in Norway," is really pleasant light reading, free from exaggeration, and full of varied incident and graphic story.

Of German tourists in Norway, the best, we think, is Mügge.\* The writer traversed Tellemarken in company with the genial and learned Professor Munch of Christiania, and he was the first, or nearly the first, to undertake and describe the northern steamboat route to the North Cape. No German, and indeed no foreigner, seems to admire wild and savage scenery with the zest of an Englishman, but Mügge does not fall into the opposite extreme, and speak of "les belles horreurs," with the French. He evidently, however, found little cause for pleasurable emotion while contemplating the grand solitudes of the Hardanger, or the wild jagged peaks of the Loffodens. Still Norway and Finnmark have left a lasting impression on his mind, and the stories of Norwegian life that he has since published, shew a thorough appreciation of the scenery, and great acquaintance with the peculiar customs of the country. Until a very recent period, hardly any of our English travellers have possessed the advantage of an acquaintance with the language and literature of Norway. The latter indeed is of very recent growth in the country, for though much had been done for years in the departments of natural science, history and antiquities had possessed but very few native students. Norwegian literature however, though young, is vigorous and healthful in its growth. The great work on the History of Norway by Professor Munch is fast approaching completion; Keyser and Lange have laboured well in the field of Ecclesiastical History; while the rude traditions and ballads, those invaluable records of a nation, have been saved from oblivion by the diligence of Asbjornsen and Moe, of Landstadt, and of Faye. The original and painstaking researches of Eilert Sundt have thrown much light on the mortality, and, we grieve to say it, also upon the immorality of Norway; while to the

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\* Skizzen aus dem Norden, 1844, 2 vols. 12mo.

same benevolent individual we owe a most curious history of the Gipsies in Norway, a work with all the romance but none of the untruthfulness of George Borrow. We must leave these native writers however to future consideration, and we return to an English author, whose works stand at the head of our list, and who deservedly holds a high place among Norwegian travellers. Mr. Metcalfe is a genial hearty writer, not indeed of the most refined description, but he is thoroughly conversant with the language, literature, and people of Norway. He is a thorough sportsman too; as much at home on the banks of a wild salmon stream, as among the ancient Sagas and traditions of the North. His delineations of peasant life, the only true and unadulterated existence to be met with in Norway, are faithful in the extreme, his spirits never flag, and he carries his reader along with him through scenes and scenery, as if he were seated at his side in the carriage, or in the boat. His books are thoroughly English and characteristic of the present day, not ponderous and deep, but racy, sparkling, and perhaps a trifle "faster" than we should expect from a grave and Reverend fellow of Lincoln College, Oxford. Hear how he speaks plainly in his first chapter.

"If you must sleep in a good hotel and sit down to table d'hôte every day, then avoid Norway. In the whole country, which has a coast some two thousand miles long, there are not half a dozen hotels out of the modern capital, Christiania. I once heard, by-the-bye, a sedate 'Head of a House' enquire whether the hotels in Lapland were comfortable. Alas! for his simplicity. In Scandinavia the beds are too short, the sheets are often soiled, and so brief, that you will find your limbs not unfrequently in disagreeable proximity to an undressed coverlet of calf, or reindeer skin. And then the fleas!

"But if you are a lover of wild and savage nature, whether as sketcher, botanist, geologist, or sportsman, especially the last, then go by all means. You will have a regular shooting coat life of it; no conventional bother, no fuss about external appearances, and you will meet with much that goes to the heart of an adventurous Englishman. Of course you will have to rough it, to live on the simplest fare; but you will soon rise superior to all those petty drawbacks. Think of catching big trouts and char, bigger than ever you saw in England, and nothing to pay for the sport. No subscription ticket to be purchased, no water-bailiff at your heels, or competing anglers to disturb the holes you are coming to."—(p. 5.)

Mr. Metcalfe's first recorded journey was by the well-known route over the Fillefjeld from Christiania to Bergen, and of course, like most young travellers, he took a carriage from the former place, though much of the journey is by water conveyance. He is much impressed by the grand scenery that commences on the Lille Miosen lake, and continues from thence almost uninterruptedly, until the traveller arrives at Bergen. On this road occurs the magnificent defile of the Nærodal, leading down to Gudvangen on the Sognefjord. Bayard Taylor, who has been over half the world, says that it is only equalled by one valley in depth and sublimity, viz., the pass of the Taurus in Asia, leading from Cappadocia into Cilicia. There is nothing in Switzerland or the Pyrenees to compare with it. We ourselves once entered it about eight p. m., in the month of August, when the beams of the sinking sun were glancing down the valley, and even reached the beryl-coloured river that flows through it. The cliffs on either side are from two to three thousand feet in height, while the valley is scarcely a thousand paces broad. On every side, the waters of the great mountain plateau above poured down in long white lines over the precipices, but though these were snow-fed streams, and consequently most swollen in hot dry weather, very few, if any, reached the bottom of the cliffs otherwise than as spray. At the head of the valley where the road is admirably engineered down a succession of terraces, there are two gigantic waterfalls of four hundred feet and more, and as the road winds from side to side on the descent, the traveller sees them alternately at every turn, till he reaches the bottom, when they appear in their full majesty. It is to be hoped that the wretched accommodations afforded by the Norwegian Inns will soon be improved, or not many "Heads of Houses" will be seen there.

Mr. Metcalfe has evidently no sympathy with the bastard mediævalism of the Puseyite school. We thoroughly believe that he would honestly confess, if the question were put to him, that the Church of England, since the era of Henry the Eighth, is actually a different church, and holds a different creed from that which preceded it. He is no Church hunter; a pointed arch or a decorated window does not attract him, and he even descends to use the epithet "Popish," when speaking of the Catholic faith. He tells us, for instance, that the

Church of Vossevangen, so beautifully situated on the lake of that name, is quite devoid of interest ; whereas it possesses an early pointed triplet window at the west end, a nave and chancel, and the base of a large west tower surmounted by a remarkable timber belfry and spire of above one hundred feet in height. Moreover in the stone vaulted vestry north of the chancel we saw a most beautiful silver-gilt chalice of mediæval workmanship. It was standing in an old cupboard, the doors of which were in part broken down. Vossevangen has however another point of interest for the Catholic. It was hither that Olaf Thorkelsen, the last Catholic Bishop of Bergen, retired, when deprived of his see, and it is said that he was hidden for some time in the vault beneath the high altar of this church, until, protected by his faithful adherents, he found a refuge at Dukstad, a mile or two from the town, where he died shortly after. Mr. Metcalfe says sneeringly of him, “ The last Popish Bishop of Bergen, who fled to this place at the Reformation, is buried in this Church. He is said to have loved strong Hamburg ale, and to have been devoted more to gain than godliness.”—(p. 70.)

Mr. Metcalfe borrows this story from Faye, but he neglects to add that that clergyman considers the Bishop a calumniated man. Our ideas of the Catholic bishops, clergy, and laity, of the times of Mary and Elizabeth, would not be very correct, if our only sources of their history were to be sought in “ Fox’s Book of Martyrs.” No Catholic history of the dying struggles of the Church of Norway has ever been written, the documents that have come down to us are almost entirely from the hands of those hostile to the ancient faith. Enough however has been preserved to shew that here, as elsewhere, the people were strongly opposed to the change of religion. In the remote country districts many priests remained hidden for years after Catholicism had been formally abolished, and were protected and favoured by the people. It appears too that a certain correspondence was long maintained between the Catholics of Norway and those religious orders that had sprung up in Southern Europe ; for it is on record, that in Christian the Fourth’s time, Laurentius Nicolai, a Jesuit priest, was for some time in Norway. Under the name of “ Kloster Lasse,” he resided long at the farm of Oppedal, near Kintservik in the Hardanger, and is said to have had many adherents there, even amongst the Lutherans.

Clergy, though no Catholic Bishop had then been in Norway for fifty years. In Jondal, at the head of the Sör fiord, in the Hardanger, there is yet to be seen a tombstone before the church with sundry holes drilled therein, which the people say were formed by drops of a Lutheran minister's blood, whom the people slew because he wished to deprive them of their Matins, of their Ave Maria, of Holy Water, and of the Sign of the Cross. Forty years after the forcible introduction of the Reformation (?) into Bergen, the authorities found it necessary to remove certain pictures from the high altar in the cathedral there, because many old people persisted in praying before them. An affecting tale, founded we believe on fact, is told of an old priest returning, after long banishment, to die in a cave that overhangs one of the Norwegian lakes near Skien. The reader will find it in the first volume of Mr. Metcalfe's *Oxonian in Thelemarken* (p. 30), where he relates it as having been told him by a young lady he met on board of the steam boat. The young lady must have had a marvellously good memory, to have given not only the substance, but even the very words in which the story is first told, by a native writer, A. Munch, in his "*Billeder fra Nord og Syd*," 1856, p. 125. We fear this is not the only instance of Mr. Metcalfe appropriating the spoils of others. There is hardly one of his ballads, legends, or superstitions which has not appeared in print, though he would lead his readers to infer that he took them down from original sources, from oral recitation by the peasants themselves. We may dismiss the subject of the last struggles of the Catholic faith in Norway, with a quotation from a still living Lutheran clergyman of that country.

"When the Danish leaders commenced the work of Church reform, in the yet unprepared land of Norway, by imprisoning the Catholic bishops, driving the monks from their cloisters, and destroying the images of the saints, the people continued for a long time hostile to the new doctrines, and remained in heart and practice thoroughly Catholic. The Bailiff of Agdesiden was mortally wounded when he endeavoured to force the people to support their Lutheran pastors, and a special Royal Ordinance was required in Opslo and Hammer before the people could be induced to rebuild the ruined presbyteries."—Faye. *Norske Folke Sagn* (p. 175.)

From Bergen Mr. Metcalfe coasted by steamer northward to Molde, and then leaving the beaten route, he



penetrated into the interior of the country. We wish that we had space for some of his sporting experiences in this wild district, and especially for his account of a three days' fruitless expedition to the mountains in search of wild rein-deer.

For a Protestant monk, as he terms himself, Mr. Metcalfe is unusually discursive on female dress and beauty in Norway. He ascribes the pearly whiteness of the teeth of the Sundal damsels, to the acid of the brown bread and sour milk which forms so large a part of their food; and he says that at Tonset in Osterdalen, the peasants are constantly chewing a herb (?) called Harpix, which has the same purifying qualities. Had he consulted Ostgaard's pictures from Osterdalen (*Billeder fra Osterdalen*, 1852), he would have found that Harpix was a gum, an exudation from the pine tree, at first brittle and crumbling, but when chewed for a certain time it becomes soft and not unpleasant to the taste. No more acceptable present can be made to a peasant girl, than a well masticated piece of "Kaae" (Anglice, chew), prepared of course by the sound teeth of her lover!

From Drontheim our Author made his way by steam-boat beyond the arctic circle, and after passing the Loffodens, buried himself, in search of sport, amid the wild forests on the banks of the Mons and Bardu rivers, near Tromsøe.

Within the last few years the spirit of religious enquiry has awakened to life, in the hitherto quiet and respectable Norwegian church establishment. After a period of absolute torpor extending over nearly two hundred years, the voice of dissent has been heard again, and along with it the Catholic Church advances to regain her lost ground.

"These religious revivalists are known in Norway by various names *e.g.*, Opwachte, waked up people; Lesere, readers. But their most common name is Haugianer, after Hans Nielsen Hauge, the son of a peasant, who was born at Thunö, near Fredrikstadt, in 1771. This man, who was a sort of John Wesley in his way, travelled the whole of Norway from South to North, arousing the people by his discourses and writings. Inward conversion, and the New Birth, and a corresponding life, were the topics he chiefly insisted upon. Ultimately, however, a great deal of erroneous and fanatic doctrine became mixed up in the teaching of himself and his followers. Contempt of the clergy and community of goods were prominently advanced. Excesses ensued in consequence. The.

sons and daughters of rich peasants left their homes, and placed their property at his disposal.

“The clergy of that day, who were filled with rationalistic notions, and were besides not very partial to any deep religious views, soon retaliated, and got up an agitation against him. The government stepped in and he was arrested. A royal Commission was appointed to examine into the charges against him ; pending which, for the space of nine years, Hauge was kept immured. He was then condemned to hard labour for two years, and all the costs.”—(p. 100.)

Hauge died in 1824, but his followers have kept up the spirit of his doctrines in a modified form. Their opinions approach nearly to those of ultra Calvinism.

Recently the founder of another sect has appeared, in the person of Gustav Adolf Lammers, the Vicar of Skien. He commenced by inculcating stricter morality, and next declined to baptize children, and at length seceded from the established church altogether.

“A tract in my possession,” says Mr. Metcalfe, “professes to be the Confession of Faith of this new Apostolic Church. In the preamble they state that they wish to make proper use of God’s word and Sacraments. But as they don’t see how they can do this in the State Church, in which the Word is not properly preached, nor the Sacraments duly administered, they have determined to leave it, and form a separate community in conformity with the Norwegian Dissenter Law of July 16, 1845. The baptism of infants they consider opposed to Holy Writ. All that the Bible teaches is to bring young children to Christ, with prayer and laying on of hands, and to baptize them when they can believe that Jesus Christ is the Son of God, and will promise to obey his gospel. Hence the elders lay hands upon young children, and at the same time read Mark x., verses 13-17. At a later period these children are baptized by immersion.”—p. 26, vol. i.

These men object altogether to Confirmation as a religious rite, and hence they necessarily come in direct collision with the state clergy, for in Norway and Sweden no unconfirmed person can hold the meanest office, or even can be hired out as a servant. Confirmation in the Lutheran Church seems to be the portal of admission into social life and its privileges,—it is for the Norwegian peasant what the coming of age is to a minor in England. The Norwegian dissenters thus practically exclude themselves from all offices under government; for, though toleration of all religions is loudly proclaimed, all civil



privileges of holding office are denied to any but the members of the state-church.

A fresh source of dissent has made its appearance from an unexpected quarter.

“Early in this century,” says Mr. Metcalfe, “some Norwegians, who were carried to England as prisoners of war, were visited while in prison by English Quakers, who lent them ‘Bartlett’s Apology.’ The arguments of the drab-coloured folk seem to have had such an effect on some of the prisoners that, on their return to Stavanger, they separated from the State Church of the country, and persecution was the consequence. Matters went on thus till 1845, when liberty of worship was granted to them by law. They are still, however, forced to serve in the army, and it was only this year that one of the community, who refused to do so, was sentenced to a solitary confinement of thirty days.”—p. 75, vol. i.

In Norway the Quakers have assumed now a missionary character, and we have met them travelling through the country to hold “exhortations” through an interpreter, in divers localities.

Even in the far north, amid the wild Lapp population, the elements of religious frenzy are now at work, and have been already productive of terrible consequences.

“A Swedish priest, named Lestadius, the pastor of a parish near the Tana, was the author of the mischief. When he first appeared in this part of the country, he was an exceeding jovial person, fond of company and of good living. On a sudden he became a great ascetic, and moved about among the Fins, describing to them the horrible tortures that awaited them in another world, if they took much ‘schnaps’ in this. Naturally eloquent, he gained a great hold upon this simple people, and worked them up to the highest pitch of fanaticism. His daughter also preached to the same effect. Transformed into a set of virulent bigots, nothing but groaning and fiercely lamenting over their state would serve them. Community of goods was one of their theories, new religious observances were started, and everybody who did not hold with them was anathema maranatha. The priests of the establishment they gave up for lost; and to show their zeal in the cause of religion, they proceeded to acts of unwarrantable violence.

“One dark night in November 1853, a band of these zealots, male and female, to the number of thirty, led by one Aslac Jacobson Hette, a Fin of considerable acuteness, proceeded to Kautokeino, a village on the Tana. Two women of their tribe had been punished by the Lehnsmann, or government officer there, Bugge by name, for church brawling.

“One of the customs of the sect, in fact, was to interrupt the

church service by groaning and other noises. Vengeance for the affront was their object. Some days previously it had been whispered about that an outrage was intended, but unfortunately the authorities had taken no precaution against the attack. Armed with bludgeons the Fins proceeded first to the house of the Lehusman. In spite of determined resistance he was at length overpowered, and while a boy held the point of one of their long knives to his breast, Hette the ringleader, drove it in with his fist, in the same manner as they kill the rein-deer, the women helping in the murder. They next proceeded to the house of Ruthe the Handelsman, or merchant, whom they almost beat to death with their bludgeons; a Fin named Mons Somby, gave him the finishing stroke by knocking him on the head.

“By this time a number of friendly Fins, who had come to the rescue, endeavoured to drive off the wretches, but were repulsed, and the house of the unfortunate victims being set on fire, their bodies were consumed in the flames. Thirsting for more blood, these fanatics next attacked the house of the priest, Hroslov, whom they savagely beat about the head with their clubs. Luckily as he rose from his bed he threw around him his thick ‘pesk’ of rein-deer hide, drawing the cape over his head,—had it not been for this shield of proof the blows must have been fatal. More help arriving he was saved, while his wife, and the wife of the murdered merchant, who had fled to the vicarage, escaped uninjured.”—Metcalf, vol. ii. p. 32.

The fierce fanaticism of Knox and Calvin is still alive in these Northern regions. A general movement against the state-church, both from within and from without, is now manifesting itself throughout all Norway and Sweden.

Amidst all this disorder, this frenzy, the result of private Scripture interpretation, and of unsettled religious dogmas, we discern rising in the far north, the beautiful unchanging fabric of Christ's only Church. For two centuries at least Catholicism had been utterly extinct in Norway. Gradually a small congregation has gathered itself together in the rapidly increasing capital, Christiania, and now a handsome church, beautifully situated, ornaments the town, and within its walls mass is once more offered, and vespers are sung, as they were three centuries before. But little if any opposition was offered to their progress by the authorities, we believe they even presented to the church the ancient altar-slab of porphyry, disinterred from the ruined Cistercian convent on the

island of Hovedöen, but since that time matters have not gone on quite so smoothly.

Already in 1856, before the opening of the new church at Christiania, there were heard mutterings of a coming storm. The Protestant hatred and jealousy of Catholicism had slept, but were not dead; it was only requisite that our holy faith should once more show itself in these countries, to awaken the slumbers of fanatic zeal. During the past year (1858) the pastor of the Catholic Church at Christiania has been subjected to a heavy fine, for having dared to receive into the fold of the true faith a Norwegian lady, without duly apprising the government of her conversion! Routine and red tapeism are to be met with in semi-republican Norway to a greater extent than in old aristocratic England.

But while the Catholic Church is again vindicating her rights in Southern Norway, she has ventured on bolder and more decisive measures further north. A missionary college has been established beyond the Arctic circle, at Altengaard, one of the most beautiful spots in all Finnmark. Here the missionaries, headed by an exiled Russian nobleman, Baron Djunkowsky, or Pere Etienne, as he is called in the priesthood, have purchased the magnificent estate of Altengaard, with its fields and meadows, its cattle and its timber. In Dr. Edward Daniel Clarke's travels there is a glowing description of this delightful spot, which forms so striking a contrast to the naked, barren country in its neighbourhood. On St. Olaf's day, in 1856, the name of the estate was formally changed to St. Olaf's-gaard, and forty of the principal inhabitants of the district were invited to a feast at the mission-house or Gaard. The memory of St. Olaf was drunk with honour, and the chief magistrate of the district expressed his delight at seeing once more in Norway the followers of the faith of which that king was so energetic a supporter. Mr. Brace gives the following account of his interview with the members of the mission:—

“We stopped again at Alten on our way back, and as we lay at anchor, the Baron Djunkowsky, or Pere Etienne, the head of the Catholic mission, came on board. He was a small, dark, quick man, with Russian features. His tact and readiness in the twenty minutes which he spent on the deck of the steamer, impressed you at once as a person of marked ability. Each person he addressed in his

own language, (I heard him speak five languages in that time,) and to each he spoke just what was most likely to be in accordance with his habits of thought. To me he said, after a few words, 'We are attempting here, Sir, just what you in America have so nobly solved, the question of toleration of all sects under the law. It is the question of liberty.'—p. 79.

On another occasion, at Alten, Mr. Brace had a conversation with another member of the mission.

"As we lay at anchor, a young gentleman, an Iclander, came on board from the Catholic mission, recently established in this neighbourhood. We had a long conversation together, in which I enquired of the mission and its objects. It was commenced, he stated, by a Russian gentleman, who had lost his estates in Russia from his conversion to the Catholic faith—the Baron Djunkowsky, or Pere Etienne, as he is called now.

"The mission consists of seven priests, two French, and three German, besides himself. They have a chapel, and have prepared a catechism, as well as a kind of ascetical work. (These works they print at their own press at the Mission.) A seminary and college will be opened later. The great question yet is, whether they are a legal community, (later information shows that the Mission has been legalized). It is truly a question of liberty in religion, said he, but we are obliged to present it as a question of education. At present we are only an educational establishment, and there is no law in Norway against schools by foreigners.

"I had some very free conversation with him as to his reasons for joining the Jesuit Mission. I know, he said in English, I leave the faith of my fathers, though not of the ancient Icelandic folk; but to me, at this time, the Church Catholic seems the only democratic Church. We are seeking to carry the cross among the poor Finns, and these rich Lutheran pastors say, 'No! you must pay for our salaries, you must bring in the tithes, you must keep up the State-church.'

"Do you see how these Norwegians avoid me? I am a wolf, because I am become a Catholique. They say, See! he is a Jesuit. He wants an *auto da fé* here!

"I asked him about the Finns and Lapps, whom they were trying to convert. He gave a better account of them than I had heard from the Norwegians. A simple, serious folk, he said, who could not leave their nomade life, but who might be much improved. Not especially stupid or inferior, and very grateful for kindness. He thought they were much neglected, and sometimes oppressed by the Norwegians."—p. 59.

We will conclude these notices of the interesting Alten mission with a scene sketched in 1857, by the graphic pen of Bayard Taylor.

"At A  
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sibly a missionary boarding house, for the purpose of acclimating active apostles ; but the people, who regard it with the greatest suspicion and distrust, suspect that the ultimate object is the overthrow of their inherited, (!) venerated, and deeply-rooted Lutheran faith. The Catholic *bishop* came on board at Bosekop, and Mr. Gay, who had known him in Paris, at once entered into conversation with him. A short time afterwards my attention was drawn to the spot where they stood by loud and angry exclamations. Two of our Norwegian savans stood before the bishop, and one of them, with a face white with rage, was furiously vociferating, 'It is not true, it is not true, Norway is a free country!' 'In this respect it is not free,' answered the bishop, with more coolness than I thought he could have shown under such circumstances. 'You know very well that no one can hold office except those who belong to your State-church, neither a Catholic, nor a Methodist, nor a Quaker; whereas in France, as I have said, a Protestant may even become a minister of the government.' 'But we do not believe in the Catholic faith, we will have nothing to do with it,' screamed the Norwegian. 'We are not discussing our creeds,' answered the bishop. 'I say that though Norway is a free country, politically, it does not secure equal rights to all its citizens, and so far as the toleration of religious beliefs is concerned, it is behind most other countries in Europe.' He thereupon retreated to the cabin, for a crowd had gathered about the disputants, and the deck passengers, pressing aft, seemed more than usually excited by what was going on. The Norwegian, shaking with fury, hissed through his set teeth : 'How dare he come here to insult our national feeling !' Yes, but every word was true ; and the scene was only another illustration of the intense vanity of the Norwegians in regard to their country. Woe to the man who says a word against Norway, though he says nothing but what everybody knows to be true ! So long as you praise everything, scenery, people, climate, institutions and customs, or keep silent where you cannot praise, you have the most genial conversation,—but drop a word of honest dissent or censure, and you will see how quickly everyone draws back into his shell."—p. 260.

We would gladly in our notices of the works before us, have touched more fully on the scenery, manners, and institutions of Norway. We would, if we had consulted our own inclination, have given long extracts from stirring sporting scenes, or have described the merry marriage customs which have not yet died out in this remote corner of Europe. What, however, we have laid before our readers will not, we trust, be unacceptable, especially to those who, with ourselves cherish the hope, that the glories of the old Scandinavian Church may yet be revived, and that we have been permitted to see the commencement of this stretching out of God's hand towards the North.

ART. II.—1. *The Tablet*, October 30 and December 3, 1858.

2. *The Weekly Register*, October 30, 1858.

3. *The Union*, October 29, 1858.

4. *The Jurist*, October 30, November 12 and 26, 1858.

5. *The Law Journal* for 1857.

SEVERAL cases having occurred in which the English or Irish Courts, have directed that the children of Roman Catholics shall be brought up as Protestants, there was a natural desire expressed among Roman Catholics for some explanation of the principles on which the Courts acted; and there arising at the same time a great clamour respecting the Mortara Case, which was determined by the Roman Courts on similar general principles, it became necessary to enter into some consideration of the mutual connection between the laws of Rome and England. It is unfortunate that subjects of this nature are so often made themes for mere sectarian vituperation and anti-catholic clamour. There are persons in this country who seem to lie in wait for some topic on which to raise a “cry” against Rome. It seems as though it were their sole business.

Mr. Disraeli, in his *Coningsby*, makes his Tadpoles and Tapers enlarge on the importance of a “cry,” and the enemies of the Church in every age have been well aware of it. It has formed a main portion of their tactics in this country, ever since, aye, long before the time of Lord Shaftesbury. The Irish massacre, or the Titus Oates “Plot,” each in its turn answered the object of exciting popular feeling against Popery; and a similar policy has in our own time resorted to similar means. The “cry” a few years ago was “Papal aggression.” Later still it was the Madiari. The other day it was the case of the Mortara. This was a good cry;—a child taken away by the Inquisition! A good cry—for it was not only English but European. It was a cry raised all over Europe; it was echoed and re-echoed, and was even represented to have been taken up by every European government, even by every Catholic government, except Austria. It was pretended that almost every European government had remonstrated with the Pope, and protested against his conduct in the case. This was found first to be an exaggeration, and then a pure invention. It

turns out, on the contrary, according to the latest accounts, that no European government had remonstrated with the Pope, unless that of France. It may possibly turn out after all that even this is a falsehood, and that no government has presumed to remonstrate, or to participate in the "cry," except, perhaps, our own. The British government has been moved to do so. Certain societies which exist only for the purpose of getting up these periodical cries against Rome, have vehemently incited it to do so, and have eagerly availed themselves of the occasion to take up their parable "against Babylon." And strange to say these were the very same people who moved heaven and earth, or at least the Court of Chancery, to take little Alice Race from her mother, and who were at the very same time in Ireland busily engaged in moving the Irish Court of Chancery to take the little Murphys from their paternal guardians.

There is no consistency in bigotry; and it has neither conscience nor memory; else one would have thought that the recollection of these recent acts of their own might have deterred them from very shame, from raising a "cry" against the Holy Father on the subject of infant guardianship. But no! bigotry is blind; and while Lord Chancellor Napier was preparing his judgment on the case of the Murphys, these people took up, and loudly re-echoed the "cry" of the false "liberals" of Europe about the Mortara case. Too blind to perceive that if that judgment, and the judgments of our courts in other similar cases could be justified, it could only be upon the ground of a professed application of the very principle on which the Holy Father had acted.

Ignorance and bigotry generally go together; at least taking the most charitable view of bigotry, that it does not arise from want of charity. And not one in ten thousand of those who joined in the senseless "cry" against the Holy Father upon the Mortara case, had the slightest idea of the principles upon which our Courts of Chancery have acted, and constantly act in cases involving similar principles. The laws of Europe are, for the most part, based upon the Roman law. By which we mean not, of course, the law of old Pagan Rome, but the Roman law as it was modified by edicts of the early Christian emperors, from Constantine to Justinian; as it was ultimately moulded and adapted to the principles of Christianity



under the auspices of the Roman Church. Those edicts protected the baptized children of Jews from their parents ; and forbade them to have Christian servants, or to retain any who desired to be Christians. And the whole law was moulded in conformity with Christianity ; the civil was made to blend with the canon law, the *patria potestas* was made to bend to the higher obligations of religion, and the state assumed the lofty function of guardian of all its Christian children. This was the Roman law ; the noblest work of the declining empire, its grandest legacy to the Christian world. And it was clung to with grateful admiration by all the nations who had received the rich treasures of civilization and religion from Rome ; and, by the Briton and the Frank, by the Saxon and the Goth, was made the basis of their Christian law. It could, indeed, scarcely have been otherwise, since these various tribes, barbarian when conquered, could derive civilized law only from their conquerors, the then masters of the world. And the grandeur of the Roman Empire, even in the ages of its decline and decay, impressed the savage tribes whom it subjugated with wonder, and an admiration which long survived its power. Historical records, and critical research, legal antiquarianism, and the internal evidence afforded by every European code, equally attest the fact, that the civil law of Christian Rome formed the basis of every European system of jurisprudence. And the knowledge of the fact is essential to an enlightened appreciation of the comparative merits of any of those systems of law which, by course of time and national peculiarities, have necessarily become in a very great degree diversified. Tracing a common origin, founded on common principles, it is by an appeal to these principles we can the most impartially determine any disputed question that may arise, and best free ourselves from national prejudices and all the bigotries which they engender. What we have said applies to the law of England, along with the laws of every other European country, although not perhaps in so great a degree. By reason of our insular position, of our national obstinacy, and above all, by reason of that change in our national religion which has necessarily influenced our laws, the outward cast and character of our law may not at first sight so resemble the Roman law as those of other countries, even under our own crown. Thus the law of Scot-



land, as well as that of France, more resembles that of Rome, than does that of England. But this is a difference more either of procedure, or of statutable regulation, than in principle and real essential character. And the most learned of our jurists agree in ascribing to the Roman law the origin and foundation of our own.

Thus old Coke strenuously maintained that our law was not essentially altered in the time of the Saxons, from that which existed in the time of the Britons and the Romans; and that the basis of our common law is to be found in the Saxon laws. This is quite in accordance with the very latest researches on the subject; and thus Professor Creasy, in his interesting little work upon our constitution, shows clearly that the Saxon conquest by no means exterminated the British element in our language or our laws, but rather incorporated and adapted it. And the Norman conquest only overlaid the Saxon law with the feudal system, which has now for ages been obsolete. This being so, it follows that our common law must have had in it all along, a large admixture of the Roman law, for no one will seriously maintain that the barbarian Britons, as found by Cæsar, could have had any law worthy of the name. Coke and Blackstone, who, each in his own age, strove to the utmost to flatter the sentiment of nationality as opposed to Rome, carefully kept out of sight the Roman element in our law, and wrote of the Saxon or Briton law as if they ever had a real separate existence, which they never could have had, at least as a civilized law, seeing that when subdued by the Romans they were simply in a savage state, and learnt from Rome both law and religion. Surely the most ardent "Anglo-Saxon" can scarcely be serious in supposing that the savage hordes who came over with Hengist and Horsa had any organized and civilized system of jurisprudence. But the matter is not open to argument; for any one who reads the Anglo-Saxon laws will see, that, except so far as regards the half extinct traces of such barbarous customs as serfdom or ordeal, or the like, their origin and character were Roman: even the canons of the Roman Church being solemnly recited and recognized. And here, as in Rome, the Roman civil law was necessarily harmonized with the Roman canon law, which still to a great extent is acknowledged by, or rather incorporated with, our own. The law of the Church must necessarily have

modified the civil law, and imbued it with its own spirit, and adapted it to its own principles. And this law it was on which the Britons and Saxons, when successively Christianized, moulded their systems of law, and which, therefore, as Coke shows, formed the basis of our ancient common law.

This perhaps is for several reasons more true, or at least more discernible, in a system of equity than of law. In the first place, equity being rather a science of pure justice and conscience, is based on broader principles, less open to change, and less affected by positive law, than is the case with what is in a narrower and stricter sense called law. We say in a narrower and stricter sense, for originally equity was deemed a necessary attribute of law. Our oldest textwriter, Bracton, basing his work upon the code of Justinian, thus describes it. And even in the year books, instances can be found of the Judges appealing to the "Imperial Law." Equity is in its principles as ancient as the civil law; and its rudiments may be traced in Cicero's treatise *De Officiis*, where cases are put which would at this moment probably be acknowledged and followed in our Court of Chancery. Principles founded on equity never change; and it is a curious fact illustrative of our argument, that the civil law of *cessio bonorum* forms the basis of our modern law of Bankruptcy. And so as to the doctrine of trusts.

All this is pre-eminently the case with regard to the law as to guardianship in infancy, which in this country is chiefly administered in Chancery. Its principles can be traced all through the Roman law, even up to the Twelve Tables. "Howsoever a father of a family directs by will as to his property, or the guardianship of his children, such shall be the law. But if he dies without a will, and has no direct heir, the nearest male relation on the father's side shall have the property," and doubtless, according to the spirit of the law, the guardianship. That it was so indeed is clear from later versions of the Roman law. Any father might leave whom he pleased as guardians (*tutores*) to his children. But if he died intestate, this charge devolved by law on the nearest relation by the father's side. When there was neither a testamentary guardian nor a legal one, then a guardian was appointed to infants by the *Prætor*, who answered to our Chancellor. If the Guardian did not discharge his duty properly,

there could be a suit against him. And, as Mr. Bowyer states in his "Commentaries," the Prætor could interfere even with the will of the father; the principle being, to regard the welfare of the infant as the paramount consideration.

Now our law followed the Roman in this as in every other subject, save so far as it was modified by the feudal system, which in the case of heirs to landed property, altered the guardianship of the person, with reference to the rules of descent, and severed the guardianship of the estate from that of the person, a distinction indeed to this day recognized both in the English and the Scottish courts. But when the feudal system was abolished, and the statute of Charles II. gave to the father the right of appointing a testamentary guardian, the law of guardianship became in substance assimilated to that of Rome, and the Court of Chancery, then establishing and consolidating its jurisdiction, declared guardianship a trust, and claimed to enforce its due administration, and to supply the want of any constituted guardianship, by its own power of appointment, on the part of the Crown, as *parens patriæ*, and guardian of all the unprotected infants in the realm. This jurisdiction, though practically it may not be enforceable but by means of money, is not limited to cases of property, but rests, as will be seen, on a broad principle, applicable to every child not having a natural or legal guardian; and as regards the discharge of the trust of guardianship, applicable to every child in the kingdom.

It is impossible to imagine any jurisdiction of greater social importance. The more so in this country, especially as to Catholics, by reason of the diversities of religious persuasion, the number of mixed marriages, and the consequent embarrassments which result from contests between surviving relatives as to the religious education of children who have lost one or both of their parents. There is on this account all the greater necessity to resort, as much as possible, to principles common to all, based on the principle of doing equal justice to all.

So long as the penal statutes existed against Catholics or Nonconformists, this, of course, could scarcely be. Now happily it may be; and our courts acknowledge that it ought so to be, and recognize the principle that guardianship should be administered without reference to religious

differences. As a cardinal principle, this is recognized equally by the law of Rome and of England. By which we mean that the Roman and the English laws equally recognize the great principle of religious liberty, that a parent may bring up his children in any form of religion, or in case of death decree that they shall be so brought up. But then our law as well as the Roman, does not allow of any absolute arbitrary right in the parent to deal with the religion of his children as his caprice may dictate, to the prejudice, or at the risk of injury to their moral and religious welfare. The laws of Rome and of England equally regard guardianship, natural or legal, as a trust, rather than a mere arbitrary right, like that of property. Though even as to property, no man may use his own so as to injure any other. And the law of England, not less than that of Rome, denies that parents can capriciously exercise their natural or legal rights to the injury of their children. Guardianship is a trust to be administered with a view to the welfare of the children; that is the great principle common to the laws of every European state, and recognized equally in the courts of England and of Rome.

Therefore the English court of Chancery does not hesitate to take children even from their father, if he is a sceptic. Witness the case of Shelley, whose avowed Deism enabled Lord Eldon to take his children from him. But the English law, as well as the Roman, recognizes the right of the Jewish parent, the Socinian, or the Lutheran, or the Calvinist, to bring up his children in his own form of religion. To a certain extent, Rome recognizes the parental right as founded on the law of nature, or rather on a law of God, prior to that of revelation. And so as to the law of England. But the moment that a child's religious education is trifled with, tampered with, or dealt with capriciously, the courts both of England and of Rome interpose, and say, "this must not be." And why? Upon the principle that capricious changes in the religious education of a child, tend to unsettle his mind, and therefore tend to that which Christians of all persuasions regard as an evil, viz.: scepticism. It is impossible, surely, to question the soundness of the principle, however we may in particular cases sustain its application. No Catholic can question, on such a subject, a principle recognized at Rome. And that it is recognized there is as much beyond a question, as that it is recognized here.

The Jew at Rome may bring up his child a Jew, but he must not bring up any one a sceptic, and therefore he must not so deal with him as to tend to that fatal result: and so unsettle his mind as to make him a sceptic. So in this country. The Court of Chancery will not allow a parent, even in his own life, to trifle either with the temporal or spiritual interests of his children. Thus when a Baptist let his daughter live for some years with a Church of England relative in wealthier circumstances, who provided for the girl, and educated her so as to fit her for a superior station in society, the court would not permit the father to take her back. No one can help seeing the principle, and no one can avoid acknowledging that if it is right and just as regards mere temporal interests, it is infinitely more so as regards spiritual. But further, our own courts favour the Established religion: a century ago Lord Hardwicke took the child of a deceased Jew from his paternal relatives, and gave him up to his mother, who had become a Christian. It may be that this decision would not be followed now; but that is no reason why Roman Courts should follow ours. It is a curious circumstance, that among our Protestant fellow-countrymen, the question of guardianship as to religion has hardly ever arisen in a purely religious form. In that form it has almost always arisen as between Catholic and Protestant. But in all the cases our courts have at all events professed to act upon the same principle, viz.: that the parental right, even in the parents' lifetime, and of course *a fortiori* the right of testamentary guardianship, must so far be controlled, that it must not be allowed to be arbitrarily or capriciously exercised, so as to risk any injury to the child, especially in respect to its religious belief. That diversities of religious teaching tend to infidelity, no Christian, certainly no Catholic, can doubt. And no man of sense would deny that to teach a child one year this form of Christianity, and next year another, and then another, and so on, would be an evil. But the important point is, that the Court of Chancery claims to control parental rights on its own ideas as to the welfare of children. It does so on the only principle capable of fair and equal application by a Protestant court, equal application to all religious persuasions. Whether or not it has always been so impartially applied, might be a question. We believe, on the whole, it has been.

There must of course be this difference between the Roman and the English courts on the subject, that whereas the former from their very constitution recognize an infallible authority, the moment they assume any jurisdiction to act at all, they can admit no doubt as to what is the right religion; whereas our English courts, in theory, regard all forms of Christianity as equally entitled to respect. But then as neither the courts of England nor of Rome assume jurisdiction to act against the natural guardian, until there has been some breach of trust, by some capricious or mischievous exercise of the natural right, or some violation of positive law or obligations recognized by law, or some misconduct in the eye of the Church, what follows upon their exercise of that right is, for the purpose of this argument, altogether immaterial. If the father's right is to be displaced, it matters little, as regards that right, in what religion the child is brought up. The Roman and the English courts concur as to the cardinal principle upon which they displace the paternal right. They differ only on the principle on which they proceed to exercise their own guardianship. The courts of England order the child to be brought up in the form of Christianity in which it has been previously instructed before the capricious change, without reference to its religious truth. The Roman courts, of course, direct the child to be brought up in the Catholic religion. This we repeat is a difference subsequent to the assumption of the right of guardianship by the state, and therefore having nothing to do with the present question, which is the assumption by the State of that right. As to that, the Roman and the English courts act on the same cardinal principle, that guardianship, natural or legal, is a trust, and is not to be capriciously exercised. In practice, the English Court of Chancery secures the same result as the Roman in this respect, that for the most part, the child is brought up in the Established religion. Partly by reason of the legal presumption that every one not proved to be of a different religion is of the established religion. Partly, perhaps, through other causes. But whatever the cause, the fact is certain; and we are not aware of any instance in which the Court of Chancery has interfered, as to the religious education of a child, where the religious instructions had been uncertain, in which the result has not been that the child has been brought up in the



Church of England as by law established. This is natural, almost inevitable, where there is an established Church. And it would scarcely be fair to murmur if the same result followed in Rome as in England. Undoubtedly in England it is so. In the case of poor Mrs. North, who just before her husband's death became a Catholic, as he was about to do, though unhappily for himself, and his wife and children, he delayed the act a few weeks, until, alas! too late; in accordance with the settled principles of the court, her children, though some were of tender age, were taken from her, and given to paternal Protestant relatives, upon the ground partly that it would be prejudicial to them to have their religious instruction changed; but partly that their father having left his religious belief uncertain, it must be presumed that he continued of the established religion.

Now to understand the full force of these decisions, and of the doctrine of our courts on which they proceeded, we must bear in mind that by the common law of England, the mother surviving the father, is natural legal guardian; so that here the Court of Chancery took away a natural and a legal right, upon the ground that, according to its principles, to permit the mother to retain the children and bring them up in a different religion, would be a breach of trust, and tend to their prejudice. It could not have been merely on the ground of the paternal right to have his children educated in his own religion; for he left that uncertain, and the court went on the legal presumption that it was the established religion. The father's wish was disregarded; just on the same ground as that in which it was professedly regarded in the other cases; namely, the welfare of the children: with reference to which, it is plain, the Court of Chancery allows or disallows the paternal right at its own discretion. It is obvious that these cases can only be reconciled upon the cardinal principle already above referred to, which has been always acknowledged as the guide of the court, in the exercise of this branch of its jurisdiction, viz.: that the benefit of the infant (and of course this means the court's idea of it) is to be primarily considered. On that ground it was that the paternal right in some cases, and the maternal right in other cases were alike disregarded. The court in the first case denied that a father had any absolute or arbitrary right of dictating the religion in

which after his death his child should be brought up. And in the case of Mr. Wellesley, the House of Lords distinctly laid down what had already been decided by the Court of Chancery in the case of Shelley, that the jurisdiction of the court could and would be exercised in the lifetime of the father, as well as after his death, and against his natural right, not less than that of the mother's, if the benefit of the infant should require it. There is, according to the law of nature, and the common law of England, no difference between the right of a father to the guardianship of his children, and that of the mother surviving him. This was lately decided solemnly by the Court of Queen's Bench. When, therefore, Lord Justice Knight Bruce took Mrs. North's children away from her, he acted upon the principle that he had authority to set aside the law of nature and the law of the land, in the exercise of the supreme and paramount jurisdiction of the Crown as *parens patriæ*, and as sovereign guardian of all the children in the realm. And who can fail to see that that was the assertion of a jurisdiction not one whit less sovereign and supreme, than any which the Pontiff, in the exercise of his jurisdiction as supreme Judge in his dominions, might claim to exercise? So in the case of Alicia Race; the Vice-Chancellor Kindersley, although the Court of Queen's Bench had solemnly adjudged that by the law of the land the child ought to be in the mother's custody, took the child away and gave her into the care of strangers, and this, although the father had distinctly in his last will confided his child to her care! In the cases of Mrs. North and Mrs. Race, the desire of the father that the child should be with the mother had no effect upon the court. Shall we say that there was inconsistency, or partiality, or injustice here? No. There was an appearance of inconsistency, but all the cases are at all events thus far consistent, that they are reducible to one great cardinal principle, which in all the cases the courts have solemnly asserted that their jurisdiction, in the matter of guardianship, is sovereign and supreme, and is exercised only with regard to that which the courts consider the welfare of the child. Upon that principle the cases are reconcilable and consistent, but upon no other. And of course it involves this, that the jurisdiction of the court is paramount to any parental right, paternal or maternal.



So in the Race and Stourton and Whitty cases. The Court of Chancery took the child from the mother in the first case, because it had in fact been brought up a Protestant, and it would in the opinion of the court have injured it to change its religious education. The court in the other cases declined to give the child to the paternal guardian to be brought up in the father's religion, precisely upon the same principle, viz.: that he had, in fact, though improperly, been brought up in the protestant religion, and that a change of religious instruction would injure him. In all these cases it is clear the court dealt with the maternal and paternal right upon the same principle, and claimed to displace either at its own discretion, with a view to the welfare of the child. In the Stourton and Whitty cases this was most clearly laid down. There the paternal guardian claimed the child, to bring him up a Catholic according to the will of his father. The court declined to take the boy from his mother, and vindicated its course upon the cardinal principle that the court must act on its own view of the benefit of the infant. The Lords Justices said that that must be the primary consideration, and that the wishes of the father could only be considered so far as they were consistent with that primary object. The court thought that it would not be for the benefit of the infant to remove her from her mother, and declined to do so, and in defiance of the father's will the child is being brought up a Protestant. It can make no difference in point of principle that the father was dead; the cases show that the court set at nought the paternal authority whenever it pleases, be the father living or dead, and although one of the Lord Justices who decided *Stourton v. Stourton*, said, in the cases of North and Whitty, that "faith must be kept with the dead;" yet in disregard of that principle, so solemnly and doubtless so sincerely asserted, the court did not scruple to direct that the child should be brought up in a faith different from the father's; and why? simply on the cardinal principle, that the court's jurisdiction is paramount to parental, even to paternal authority; and is to be exercised on the court's view of the welfare of the infant; and it is only fair to add that we know of two cases in which the court has acted on this principle in favour of Catholics.

Nor has the principle ever been questioned, averse as is this country to arbitrary power. Perhaps this may be be-

cause as yet it has for the most part been exerted against Catholics and in favour of Protestants. Of course, however, this can scarcely be said to affect the soundness of the principle, and certainly Protestants cannot question it, since for ages they have profited by it, and their courts constantly assert it. And not only so, public sympathy and support have been appealed to in order to provide the funds necessary to enable zealous Protestants to enforce the exercise of this arbitrary jurisdiction of the court against Catholics. We never can forget the efforts which were made to wrest little Alice Race from her mother; the agitation; the subscriptions; the colourable endowment, and all for what? To enable the Vice-Chancellor to say, "I am supreme and sovereign guardian of the child, and I say that it is for her benefit that she should be not with her mother, but with strangers, and I order that she be taken from her mother and given to strangers!"

It hardly seems credible that the very men who agitated and subscribed to secure this result, should have come forward and raised a "cry" against the Holy Father for taking a Christian child from a Jewish parent, in order to its being brought up a Christian. Yet so it is. Such is the unscrupulous inconsistency of bigotry.

What was the Mortara case? There is in the Papal States a law, that Catholic servants must not live in Jewish families. The known reason of the law is, that the general law of the Church as applied to such servants of Hebrew children, obliges them, should children be taken dangerously ill, to baptize them. And, by another law of the Papal States, such baptism will be a ground for removing the Christian child from the parental custody, and for placing it under the guardianship of the sovereign. With a knowledge of these laws, the Jew Mortara had a Christian servant, and not only so, but allowed her to have the care of his child at a time when it was very ill. That was in 1852; and the servant then did what he knew she must do, that is to say, she baptized the child. In other words, she, with his allowance, with his tacit acquiescence, so far as his indifference and negligence amount to acquiescence, made the child a Christian. During six years he allowed the child to remain under her care, either knowing or not caring to know, and not taking the trouble to enquire whether she had done what he must have known the law bound her to do; and six years afterwards, and

when the child was an instructed Catholic, the fact came to the knowledge of the Papal government, and in June, 1858, the child, according to the law of the Papal States, was taken from the father, and placed under the guardianship of the Church. Just as, in Mrs. North's case, her children were taken from her, and placed under the guardianship of the court. Just as, in the cases of Mrs. Race, and Lady Darnley, and a host of others, the same course was taken. Just as, in the cases of Wellesley and Shelley, the children were taken from the paternal custody, as in the other instances they were taken from the maternal care.

The English Chancellor has always acted on his view of the welfare of the child. The Roman Pontiff acted upon his. No doubt those ideas greatly differed; and Lord Cottenham, who gave Mr. Gorham the living of Bamford Speke, did not believe in baptismal regeneration. But all along we have taken care to point out that the question is not as to the exercise of the jurisdiction, so much as to its existence; and, above all, as to the cardinal principle on which it is asserted. The English Chancellor thinks it conclusive that a child has been a few years taught the Church of England Catechism, and sent to church. The Roman Pontiff deems it conclusive that the child has been washed in the laver of regeneration, and made a new creature in Christ Jesus. But the one not less than the other asserts his right to act on his idea of the child's future welfare. Why is one to be abused as tyrannical or arbitrary, any more than the other? What greater interference is there with natural rights in the one case than in the other? Nor let it be forgotten that our own Ecclesiastical Courts have recognized the doctrine of baptismal regeneration, and also given to Baptism some legal effect; for the Privy Council have affirmed that the established religion may teach baptismal regeneration, and need not bury persons who die unbaptized. And all Jurists allow that the positive laws of a state not contrary to nature or Christianity, bind those who live under its jurisdiction. All our natural rights, after all, as Blackstone shows, are controlled by the regulations of society; even personal liberty. And certainly the Court of Chancery regards not the father's wishes as the primary object of consideration, but the benefit of the infant. So is it with the Holy Father. He acts upon the very

same principle as that upon which our courts profess to act. He and they would not exactly agree as to what is for the welfare of an infant ; but that does not affect this question, which is as to the existence of a jurisdiction to declare and secure what is deemed to be such welfare. And why should not such a jurisdiction be exercised by the Chief of the Roman Church, and the Sovereign and Supreme Judge of the Roman States, as it is by Vice-Chancellor Kindersley, or Lord Justice Knight Bruce ?

There are even Anglicans who have been able to see this, and have had the manliness to avow it. The following article appeared in the *Union*, and so much to its credit is the publication, that we copy it entire.

“ Our Exeter Hall friends will, doubtless, exclaim against the Pope’s retention of the Jew child ; although it has been in conformity with the child’s own wishes, expressed at one of the father’s visits. They should, however, pause awhile before they cry out, and take a little care to be informed as to the principles upon which our own courts act in such matters. They should remember that they themselves argued, in the case of Mrs. Race last year, that a child, even between seven and ten, might be allowed a *choice* to remain away from her parent, in order to be brought up in accordance with ‘ religious impressions ’ which the child had contracted. And the Court of Chancery, in Lord Stourton’s case last year, gave a child of ten years of age an election to go with his mother, or stay with the paternal guardian. The child, of course, preferred the former ; professing to have ‘ religious impressions ’ in accordance with his mother’s, and at variance with his father’s. The real reason, however, in all probability was (though it did not occur to the learned Lords Justices) simply that the child did not like to be placed in a school, which was what the guardian wished to do with him. But in that case, the court laid it down that the father had no absolute right to prescribe the religion of the child ; and that the matter to be considered was *the welfare of the infant*.

“ The same court, in Lady Darnley’s case, took away a child from the mother because she was an Irvingite. What will Mr. Drummond say to that ? In the last case on the subject the Lords Justices thus lay down the rule :—‘ It is the first duty of the court to consult the well-being of the infant ; and, in so doing, it recognizes no religious distinctions. If, consistently with this primary duty, the wishes of the father (*or mother*) can be attended to, the court pays attention to his wishes ; but if they cannot be carried into effect, *without danger to the welfare of the child*, the father’s wishes cannot be attended to.’ (*Lord Stourton’s Case*.) Now this is just what the Pope says. The child is old enough to value the grace of baptism, and to be resolved to continue a Christian : were

he given up, he would be *forcibly* subjected to the Jewish religion, against his will. We would ask, then, are children to be declared incapable of having Christian faith? And does not Christianity, to a certain extent, confer civil rights, as it certainly does spiritual and civil responsibilities?

“By the law of the Church a child of seven is capable of mortal sin; and, by the law of this country, is capable of committing a capital crime! The Court of Queen’s Bench allows that the law books did not define the exact age within which the Court would order a child to be delivered up to the parent; but, from the mere necessity of fixing *some* age, declared that the law fixed fourteen as the age at which a child might *choose* its home. The Court of Chancery has practically permitted the choice much earlier, even under ten; for not only has it *asked* the child its choice, but it has also *followed* its choice, though not professing to act solely upon its choice. The Court professes to act on its own notion of the child’s welfare: what is that notion? Always, of course, in favour of the National Church; and what else does the Roman Pontiff than this? he acts on *his* idea of the child’s welfare; but at the same time also on a higher idea of the privileges of a baptized child. It is easy to abuse: recent events show that the vulgar and the ignorant are always most prone to revile; but our readers have, we are sure, more candour and more charity; and, above all, too deep a sense of the respect due to the rights of a baptized child, who is an intelligent agent, to blind themselves to the real truth and justice of the case.”

It will be observed that our contemporary points out the fact that the child *desired* to remain with its Christian guardians, and sincerely embraced the Christian religion. The *Weekly Register* enlarged on that view of the case, and had an article entitled “The Liberty of a Little Child to be a Christian;” asking if the English Court of Chancery would force back into parental custody a child of seven years of age who became a Christian. That is a most interesting and momentous view of the question, and in that respect the case may often present itself. We should be sorry to suppose that in such a case the Court of Chancery, in the face of its own maxim, that it is to look to the benefit of the infant, would do its utmost to compel the Christian child to apostatize, and force it back into the care of those whose idea of duty would be to coerce the child into apostasy? Suppose one of our Exeter Hall societies were to do in such a case what they did in the case of Alice Race, and what the Holy Father (oh! in how different a spirit!) did in the Mortara case? make a provision for the child, with a view to its being

brought up a Christian ; and suppose the Vice Chancellor were to converse with the child—as he did with little Alice—and were to find that the child was as sincerely a Christian as a child could be, we want any Chancery lawyer to tell us whether the Court of Chancery would force back that child to its Jewish parent? we believe it is plain that it would not. If it would, then was Mrs. North cruelly ill-treated, and Lady Darnley most unjustly dealt with. If it would not, then what becomes of the cry against the Holy Father upon the case of Mortara? That is one view of the case, taking into account the child's age and religious impressions.

But putting that out of the question, and supposing the child incapable of personal opinion or decision, then we not the less recur to the cardinal principle of the English and Roman jurisdiction in guardianship, that the welfare of the child is to be the primary consideration. In that view the only distinction that could be suggested by an English lawyer would be as to the grounds upon which the jurisdiction might be asserted in England and in Rome. No doubt there may here be a distinction, but it is one without a difference, or rather it is a difference without a distinction. The precise state of facts would arise in this country which has arisen in Italy. But resemblance of circumstance is not essential to analogy of principle, and the question is as to general principle. In the Roman States the breach of certain particular laws gives the state the right to assert its sovereign guardianship. In England it is the disregard of certain other laws. What does that matter? How does that affect the question of jurisdiction? In England a very little will suffice to enable any one to make an infant a "ward of court," and the Chancellor its guardian. Witness the case of Alice Race, where a trifling colourable endowment did it. The Pope has done as much for little Mortara; he has engaged to provide for him for life. In that respect there is no difference. Then as to the grounds or reasons on which the English court will take a child from its parent or paternal guardian, they are not very serious; in Mrs. North's case and Lady Darnley's it was merely the fact that they had been brought up as Protestants. The Roman Pontiff deems baptism of more moment than any merely human teaching, for he believes it works a sacramental change upon the soul.



As if to prevent any cavil or quibble on the subject, even while the journalists of this country were reviling the Holy Father for rescuing the child Mortara from compulsory apostasy, Lord Chancellor Napier was here in Dublin acting upon the selfsame principle, or at all events professing to do so, exercising a jurisdiction which he could not have any right to exercise except upon the selfsame principle as that on which the Roman Pontiff acted, viz., a supreme regard for the future welfare of the child. The case of Murphy is the exact parallel of that of Mortara. Murphy was a Catholic who carelessly allowed his wife to bring up his children Protestants, just as the Jew Mortara carelessly allowed his servant to make his child a Christian. Nay, the Jew's case is stronger, for he acted in contravention of a positive law, which Murphy did not. Murphy had no distinct notice by an express law, that if he let his children go to a Protestant Church a year or two, they would be prevented by the Court of Chancery from being brought up Catholics. And one benefit which will result from these discussions is, that they will serve to bring home to the minds of careless Catholics, the fearful risk they run, and the awful responsibility they incur in this respect. Well, Murphy, on his deathbed, solemnly re-claims his children for the Church, and commits them to Catholic guardianship, from which they are at once taken by the Lord Chancellor. Why? because he professed to deem it for the benefit of the children that they should be brought up Protestants. We doubt not he sincerely thought so. And what is more to the purpose, we acknowledge that in asserting this jurisdiction, he was warranted by the authorities in our Courts of Chancery. His sophistical astuteness in that reasoning upon the evidence by which he attempted to sustain his conclusions as to the facts, are quite another matter. We are dealing not with the manner in which the jurisdiction is exercised, but with the existence of the jurisdiction. Lord Chancellor Napier does not the less assert and possess a power to set at nought the paternal wishes as to the religious instruction of his children, because he tries to justify its exercise by reasoning which sounds like sophistry. Undoubtedly he has the jurisdiction—that is what we are dealing with. And why should not Pope Pius have it as well as a Lord Chancellor Napier?

We put the question in the very lowest light. We ask

no more for the supreme Pontiff than what is conceded to Lord Chancellor Napier, or Lord Chancellor Chelmsford. Surely that is not an "extreme," or an "ultramontane view." Our Equity jurisdiction, as we have seen, is, in its origin and its principles, Roman. Why should it in its original seat and source, be less rigorous than it is in those lands which borrowed it from Rome? Lord Chancellor Napier lays it down (says the *Register*) that the advantage of the child is the real object of the court; and it is obvious that every Judge, both in England and Ireland, must regard it as the greatest possible advantage to be a Protestant, and the greatest misery to be what they call a Papist. No doubt: and our Protestant fellow-countrymen have no objection to the exercise of such a jurisdiction by Protestant Judges over the children of Catholics, although they are seized with horror when a similar jurisdiction is exercised at Rome over the children of Jews. Is there any honesty or consistency in this? Does it not savour of the rankest bigotry?

In the Murphy case, as in the Race case, strangers were allowed to constitute the infants "wards of court," by what precise means is not very intelligible nor very material. It is unnecessary to lay down with precision what will be enough to make an infant a "ward of court," in other cases than those of testamentary guardianship. That always creates a trust to be administered under the control of the court. But it is clear that the jurisdiction of the court is not confined to testamentary guardianship. In the Wellesley case, the House of Lords laid down, as indeed had already been illustrated in the case of Shelley, that the court could control the education of a child, even in the lifetime of its *father*. And, as we have seen, the cases are numerous in which the court has displaced the mother, whose right at common law is clear when she survives the father. So that the Courts of Chancery in this country can, and do, whenever they think proper, displace the natural parental guardians; and when they have done so, act as they think best for the welfare of the infant, and that without, in theory at least, and, as we believe for the most part, in practice, without any preference of one religion over another.

Now the law of guardianship, like that of marriage, or of contract, is necessarily in other countries as it is in our own, a creature of positive law, and must depend upon



domicil. And the House of Lords, a few years ago, recognized the right of the Court of Chancery to appoint guardians for infant foreigners in this country, even though they had guardians abroad. In our own courts it is perfectly recognized that the *lex loci* regulates the marriage, even of British subjects abroad, and regulates all contracts made abroad. In the Sussex Peerage case, for instance, Cardinal (then Dr.) Wiseman was examined at the bar of the House of Lords, as to the law of marriage in Rome, which it was allowed would bind even a British subject of royal blood. Now, the law of guardianship, in Rome, constitutes the Sovereign and Supreme Judge the guardian of a Jewish child, in case he is baptized, and binds Christians to baptize such children in case of illness, and for that reason, warns and prohibits the Jewish residents in the Papal States not to have Christian servants in their houses. The Jew Mortara wilfully broke this law, and not only had a Christian servant, but permitted her to have care of his child while in that state in which, as he well knew, she would be forced to baptize him, and thereby to make him a "ward" of the Holy Father. The act was done, and, by the law of the Papal States, the child, in consequence of that act, became the ward of his Holiness.

Be it observed that, though in principle the Papal law may require the removal, or at least securing, of the baptized child, so soon as baptized, at whatever age, and certainly before it attains the age of religious impressions : yet it was not required in this case, which is in fact, infinitely stronger in favour of the Holy See, for the Jew father, for six years after baptism, left the child under the care of the Christian servant, so that the boy attained the age of *seven* under her charge. And thus the case was brought within the authority of a host of cases in our English Courts, which decide that parents or parental guardians lose their right by neglect, and that after allowing a child to be brought up in a certain form of the Christian religion, they cannot capriciously change it for another. That was the very ground taken by the Lord Justices in the Whitty and Stourton cases. It is not likely that the Catholic servant who had felt bound to baptize the child, would neglect to instruct him. And the father was well aware of what she would deem her duty, and tacitly by his indifference acquiesced in it.

Thus, as to the first step, the placing the child under Papal guardianship, it was as much the consequence of the carelessness, or indifference, or even the tacit acquiescence of the father, as the education of the little Murphys in Protestantism, was the consequence of their father's acquiescence or indifference; and in Whitty's case of the Catholic guardians. Lord Chancellor Napier finds no difficulty in saying that as the penalty for this indifference, the dying father's too tardy exercise of paternal authority is to be set at nought, and that he was to have "no place of repentance," albeit he "sought it carefully with tears." Yet that same Lord Chancellor possibly is scandalized at the Holy Father's exercise of his judicial authority in enforcement of the plainest laws. Poor Murphy little knew that he, by his carelessness, was sealing his children's fate for ever. There was no express law, warning him that the result of letting them go to Church would be to deprive him of all parental power over their religious instruction. In the case of the Jew, there was a clear plain warning, an express prohibition, a solemn legislative admonition, which he wilfully disregarded. Now surely the case of the Irish parent was more strictly dealt with than that of the Jewish parent at Rome. It does not appear that if there had been no express law in the case, the Pope would have acted as our Protestant Chancellor has done. The express law brought the matter home to the parent; gave him distinct notice of what he had to expect; put it in his power to avoid what took place; and made him alone responsible for it.

And then last of all there comes the child's choice, and election to be a Christian—as to which we have already observed, that should ever the question arise in this country, we very much doubt whether the Court of Chancery would give up a Christian child to Jewish parents; and sure we are, that if it did, it would create great scandal to thousands of pious Christians in this country.

It is perhaps one of the gravest questions that can arise in any Christian system of jurisprudence, when a child, by the profession of Christianity may become so far *sui juris* as to elect Christian guardians. Reasoning by analogy, we should say that it must be at the age of seven; because, by the law of the Church and the law of the land, that is

the age at which the maxim, *malitia supplet ætatem*, applies, and the child becomes to the human law, and the Divine criminally responsible. Seven is the age of mortal sin, and seven surely should be the age of Christian liberty. Access to the sacraments can scarcely, by a Christian judicature, be denied to a Christian child, at an age when the law of God and the law of man equally hold it responsible for sin. This raises a most deeply interesting question of Christian ethics, to which, in any country not blinded by religious bigotry, the Mortara case would have awakened the greatest attention and the greatest consideration. But, alas! how much is sacrificed to a "cry;" and the momentous question, which the *Register* treated of, "the liberty of a little child to become a Christian," was lost sight of, amidst the howling outcry raised against popish intolerance. Strange to say, the whole difficulty was ignored—the question was assumed—and the Pope was reviled for outraging liberty! As if a child could have no right of liberty, even on the sacred subject of religion! As if baptism imparted no freedom, or dignity, or value to the soul, and left it just as it was before! Strange idea: in a country where the Bible is revered, and infant baptism is practised, and where the words are so often recalled, "suffer little children to come unto Me!"

The highest Christian authority in the world—the head of the Catholic Church—has in this case solemnly affirmed that, at all events, at the age of seven, a little child shall have liberty to worship its Saviour. And this is called tyranny! How modern enlightenment darkens the mind, thus to obscure and pervert its perceptions! A certain society have memorialized the foreign secretary to remonstrate with the Pope upon the case. And they were the very same men who subscribed money to retain counsel in the case of Alice Race, to argue strenuously that at the age of seven a child should have liberty to leave its mother in order to become a Protestant! They were the men who urged most earnestly, as Lord Campbell said, the doctrine of prevenient grace, and quoted the tender text: "Suffer little children to come unto Me!" What a parent of inconsistency is bigotry! A child is to have liberty to be a Protestant, but not to be a Catholic!

It would seem as if there was no religious zeal among a certain class in this country apart from hatred to popery

The pious feelings of this class were excited most painfully by the idea of a child being in any way coerced to remain among Catholics. But they seem to have regarded with entire apathy the forcible retention of a Christian child among Jews. Their zeal is obviously not so much Christian as Protestant. They strenuously uphold the liberty of a little child to be a Protestant. They deny him liberty to be a Christian. They are regardless of the parental rights of Papists—most tenderly alive to their sacredness in the case of “Jews, Turks, infidels, and Hindoos.” In India we are well aware that the judges of the courts of law constantly give up to Mahommedan or Hindoo parents children nominally converted to Christianity, unless they have attained the age of fourteen, which is the age at which, by the law of England, a child may elect a guardian. But, in the first place, the age is purely arbitrary; and no one will be so absurd as to argue that there can be anything in it which a foreign judicature is bound to adopt. And in the next place, as we have seen, our courts of equity disregard it, and take the more just and rational course of looking at the actual state and capacity of the child’s mind. Thus, in the two last cases which have occurred, the ages of the children were nine or ten. And in others of the cases we have referred to, between seven and eight, or between eight and nine. The truth is, that the mere age is nothing. But if an age must be fixed, the age fixed by the law of England, as well as the law of the Church, for criminal responsibility, is that of seven. There is, as a writer in the *Tablet* truly observed, no principle in a particular age or number; the age of seven has been thus fixed, because all children at that age, if not before, have attained the sense of right and wrong—the perceptions of conscience and the sad capacity of sin. And what we have been anxious to direct attention is the very principle itself. Positive laws must vary in different countries, and it is part of the law of all civilized countries to respect the law of any other. Even in the case of Roman law we have seen this recognized by the House of Lords, in regard to marriage. Why should it not be so as regards guardianship? Especially when, as we have seen, there is a general conformity in principle between the Roman and the English doctrines on the subject. That it would have been so, except for religious bigotry, we have no doubt. The whole idea of

religion, which appears to be possessed by a large class of persons in this country is, antagonism to Rome. They live in a state of feverish anxiety for some new cry against "Babylon." And the moment anything arises which excites their anti-papal feelings, they are absolutely blinded by bigotry, and deafened to everything but their cry. On this occasion we were told that all Europe joined in the cry; but at last it appeared that all Europe dwindled down to England. And even all England, perhaps, on a little reflection, will be found to dwindle down to Exeter Hall.

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ART. III.—*Sancti Patris Nostri Clementis Romani Epistolæ binæ de Virginitate, Syriace*, quas ad fidem Codicis MS. Amstelodamensis, additis notis criticis, philologicis, theologicis, et nova interpretatione Latina, edidit, Joannes Theodorus Beelen. Lovanii, 1856.

FEW are ignorant of the coarse vituperations which were poured out by Luther and his brother Reformers against all who extolled in their writings or sought to realize in their lives the holy virtue of virginity; and hence, without doubt, many will be surprised that a member of his spiritual family should have been the first to make known to the literary world two letters of St. Clement of Rome, which are justly deemed the highest eulogy of that virtue, and at the same time the most diffuse, the most eloquent, and in every respect the most important treatises concerning it which have come down to us from the apostolic age. It was in the year 1752 that first were published by Wetstenius these two encyclical letters of St. Clement addressed "to virgins," *Ad Virgines*. The Syriac version was discovered by him in an ancient and valuable copy of the Syriac Peschito New Testament, which had been purchased a few years before at Aleppo, by Mr. James Porter, the British consul in Syria. In editing these letters Wetstenius presented, together with the Syriac text, a Latin translation, which however has justly been deemed defective and incomplete, whilst he

moreover allowed many errors to creep into the original text. It was the desire to remedy such defects that first impelled Dr. Beelen, professor of oriental languages in the university of Louvain, to undertake the republication of the letters of St. Clement; and that nothing might be wanting to render his edition complete, he collated anew the text of the Syriac manuscript. Not content however with publishing this text with perfect accuracy, he added a literal, yet elegant Latin translation, and prefixed to the letters a diffuse essay, in which he reviews the labours of his predecessors in the work of illustration, and refutes the various arguments which have been advanced during the past hundred years to impugn the origin and authority of these interesting relics: and we must add, his argument is proposed with such perspicuity and precision as to seem to set at rest for ever all doubt as to these two letters, being the genuine work of St. Clement of Rome.

Immediately on their first publication by Wetstenius, many arose to combat his opinion, and the apparent leaders of this opposition were Lardner\* in England and Venema† in Germany. Many Catholics too, hesitated to receive them as writings of St. Clement: even Mansi‡ doubted of their genuineness and his sentiments were shared in later times by Lumper§ and Wiest.|| But far more numerous was the array of those who undertook their defence, of whom it may suffice to mention the name of Gallandi¶ in the last century, whilst in our own times, Zingerl,\*\* Permaneder,†† Möhler,‡‡ Malou,§§ and Villecourt||| ably defended the same cause.

Indeed the testimony of St. Jerome, though concise, is yet so clear that it becomes difficult to understand how men of judgment and learning could arrive at a contrary

\* A Dissertation upon the two Epistles ascribed to Clement of Rome, &c. London, 1753.

† Epist. ad Wesseling, Harlingae, 1754.

‡ Concil. Collect. tom. 1. pag. 157.

§ De Vita &c. PP. part. 1. pag. 40. seqq.

|| Institt. Patrologiae. Ingolstad, 1775. ¶ Max. Bib. PP.

\*\* Die zwey Briefe &c. Wien. 1827.

†† Bibliotheca Patristic. ‡‡ Patrologie.

§§ Biblioth. Ascetica tom. xv.

||| Les deux Epitres aux Vierges, &c. Paris, 1853.



conclusion. Writing against the heretic Jovinian (lib. i. cap. 12.) and speaking of virgins, he says, "to these too, Clement, successor of the apostolic Peter, who is commemorated by St. Paul, (Philip. iv. 3.) addresses letters the entire subject of which regards the sacred character of virginity." Thus St. Jerome indicates the author of the letters, and those to whom they were addressed, as well as the subject of which they treat, whilst at the same time his words present a sufficiently manifest description of their matter to enable us to establish beyond a doubt that to no other work of St. Clement, but precisely to our letters had the learned Father referred.

The words of St. Epiphanius are not less explicit; nay, they give still more detailed and precise data for determining that the letters of which we treat were precisely such as, even in the age of Epiphanius, were read publicly to the faithful, and received thus a special sanction of the early Church. "The Ebionites," he writes, (hæres. xxx. § 15.) "retain a work which was written by Clement, and bears the title ἡ Περίοδος Πέτρου: this book they corrupted, leaving however some true things. But Clement himself convinces the heretics of falsifying the text by the encyclical letters which he wrote (αφ' ὧν ἔγραψεν ἐπιστολῶν ἐγκυκλίῳν) and which are publicly read in the holy churches: for in these letters his faith and style are quite different from the work which the Ebionites attribute to him. In these letters he inculcates virginity, whilst they repudiate it; he extols Elias, David, Samson and all the prophets, whom *they* condemn, &c." The first characteristic of the letters here attributed to St. Clement is so peculiarly verified in our letters, that no doubt can be entertained regarding it, and that we may see how justly also the sacred characteristic (namely, the eulogy of Elias and all the prophets) is attributed to them, it will suffice to remark that in the first letter chap. vi. p. 29, we find proposed as a model of virginity, "Elias and Eliseus, and many other holy men;" again in the second letter (chapters ix. and x.) David and Samson are his theme of eulogy; and in chap. xiv. p. 105. he speaks in general of "the Prophets," and again in the same chapter p. 107, he extols "Micheas and all the prophets." Surely then all criticism must be abandoned, should it be supposed that these testimonies do not establish the existence and public use in the fourth century of

the two letters now before us, addressed *Ad Virgines*. It is equally certain that these letters were then referred to St. Clement as their author, whilst it is impossible that letters supposititiously bearing the name of this holy Pontiff, should in that early age be attributed to him, and as such be publicly used in the Church.

We find moreover that in the Syriac Church the tradition as to the genuineness of these letters continued ever clear and unhesitating. The fact of their being united with the Gospels of the Peschito version sufficiently proves that in the only manuscript in which they have come down to us entire, they were destined to be read publicly in the Syriac Church. We find moreover, reference made to them by Dionysius Barsalibi and other Syriac writers,\* and the untiring labours of Mr. Tattam and his associates in exploring the remains of ancient Syriac literature,† have brought to light another copy of a portion of the Syriac version of these letters which serves to establish at the same time the antiquity of that version, and the perfect conformity of our text with that known to the early Church. The manuscript which presents this fragment is referred by Mr. Cureton (*Corp. Ignat. Appendix* p. 212.) to the sixth century, having been compiled, however, from works of an earlier date. Indeed the whole manuscript is nothing more than a collection of extracts from various writers, and when about to present a portion of our letters it gives to it the heading:—"of Clement Bishop of Rome. From his First Letter on Virginity:" then follows a long extract from this letter which it would be unnecessary here to copy, and which we need not add is found perfectly agreeing with the text of our epistles as presented by Dr. Beelen.

Having said so much regarding these ancient testimonies we will not dwell further on the intrinsic arguments which disclose to us the full features of St. Clement of Rome,—the same style, the same manner of arguing, the same doxologies, which characterise his other genuine writings. We will rather come at once to consider the matter of these letters, and dwell for awhile on some

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\* See *Polegomena*, Lect. 2. p. 53 et seqq.

† See 7th art. in the July number of this Review, 1858.



doctrinal points which bear on the controversies of the present day.

The subject of the two Letters of St. Clement, as their title indicates, is little more than a continuous eulogy of the holy state of virginity. To form a complete idea of the praises which he bestows on it many whole chapters should be referred to. It will here be sufficient to cull a few passages which illustrate his peculiar mode of establishing the excellence of this heavenly virtue, and which prove that the sentiments of the later Fathers of the Church were shared by its earliest ornaments and by the disciples of the apostles themselves. In the 1st epistle chap. 5. St. Clement writes :

“Can you conceive and understand how deserving of honour is virginity ? can you comprehend how exceeding great is its glory ? It was the womb of a virgin that bore our Lord Jesus Christ, the Son of God ; and that body which he received and in which he triumphed over the world, he received from the Holy Virgin. Learn hence the sublime perfection and dignity of the virgin state.”

These words present to us not only an eulogium of virginity, but they present moreover that very motive for its commendation on which in a later age St. Ambrose and St. John Chrysostom so loved to dwell, we mean the virginity of Mary—that our Divine Lord chose a virgin for His Mother, and one whose distinguishing feature even in prophecy was her virginity. “Behold a *virgin* shall conceive.”

A little further on St. Clement gives St. John the Baptist as a model of virgins, precisely as in the fourth century St. Jerome and other Fathers eulogized this virginity. “In what,” cries St. John Chrysostom, “can the true lovers of virginity, Elias and Elisæus and John, be said to differ from the angels ? In nought save that they were clothed with mortal flesh.” Another example or model of virginity introduced by our saint is *St. Paul*, (chap. 6th, p. 28-29.), thus corroborating the testimony of Tertullian, who was hitherto the earliest witness to the celibacy of this apostle.

Another important feature of the teaching of St. Clement is, that he commemorates the dedication of virginity to God by solemn vow. Many of the reformers, and in an especial manner Calvin, condemned as impious and unknown to the early Christians this practice of the

Catholic Church. But we have now a fresh illustration of how each new monument of antiquity that comes to light reveals to us more and more the profane assumptions of these ministers of iniquity, and discloses to us in its fair and unchanging features the true comeliness of the Church of Christ. For St. Clement (1st letter chap. 3.) manifestly supposes this custom to be prevalent in the Christian Church, when he speaks of those “who promise before God” to maintain their virginity. “*Quicumque coram Deo spondet se servaturum esse castitatem.*” (p. 17.) The same is also implied in the title by which we find the virgins more than once indicated in these letters, that is, *Bath Rejomo*; “*filia foederis.*” Indeed, so definite is the meaning of this Syriac formula, and the idea of one bound by vow to God is so naturally suggested by it, that we know not how any one pretending to an acquaintance with the Syriac language could assign to it a different meaning. Yet we have, in Wetstenius’s translation of these words, a sad example of how even learned men allow themselves to be blinded when it becomes their interest to minister to the sectarian prejudices of party. Wetstenius nowhere gives these words their true meaning, and hesitates not to translate them *filia nubilis*, a meaning, as Dr. Beelen well remarks, in which that phrase is nowhere to be met with in the Syriac writers. Indeed, little doubt can be entertained as to the genuine interpretation of the formula; its use is frequent in the Syriac writers, and its meaning clear and definite. Assemani, than whom we have no higher authority as to the force of words in that language, explains it as signifying “*puellam quæ virginitatem suam stabili fœdere seu voto Deo obstrinxerit.*”<sup>\*</sup> It would not be difficult to add many examples from other Syriac writers to prove that this alone is its genuine meaning. The title of one of the Synodical Canons in the collection of Ebedjesu presents this phrase; whilst its subsequent context sufficiently defines its meaning when it merely enacts penalties against those who “violate their vow.”<sup>†</sup> And to take one other instance, we find this

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\* Acta Martyrum orientt. part. 1. p. 42.

† Scriptt. Vett. Nov. Collect. Maji tom. x. p. 213.

very phrase used in the Acts of the Oriental Martyrs to designate the holy virgin Tharba, whilst the words which she addressed to the tyrant ; “ Ego sponsa sum Christi et virginitatem meam propter eum servo illibatam,” clearly establish in what sense it was employed.\*

It is true, some who have impugned the authority of these letters imagined that they had discovered in this very reference to the vow of virginity, sufficient grounds for referring the whole work to a later age than Tertullian, who, they say, was the first Christian writer to speak of the vow of virginity. Of course such a line of reasoning is easily proved to be fallacious. For let us suppose that this very work of Tertullian in which he commemorates this vow, was only now for the first time discovered, and that no other writer till the age of Jerome made like reference to it, should we be justified in concluding from this sole reason that such a newly discovered treatise could not be referred to Tertullian but must have a date assigned to it, later than St. Jerome’s age? Certainly such reasoning would be ludicrous ; and it must be equally absurd to conclude from the like argument of our adversaries that the Letters of which we speak cannot have for their author St. Clement of Rome. But we must moreover, remark, that the supposition on the other side rests on mere assertion, and is in plain contradiction with the monuments of the early Church ; for, long before the age of Tertullian, we find mention made of those among the faithful who vowed their virginity to God, even going beyond the words of the apostle in his letter to the Corinthians which more than suffice to justify this holy practice. For instance, St. Cyprian in his treatise “ de habitu Virg.” ch. 4. speaks of those virgins who had consecrated themselves to Christ, “ et tam carne quam mente se Deo voverunt ;” and the words of Clement of Alexandria,\* imply a similar dedication of virginity by vow to God.

There is another principle laid down by St. Clement on this subject which merits attention, we mean, *the excellence of virginity* above the marriage state. It was this Catholic view of that virtue which especially provoked the

\* See Assemani Acta Martt. Orientt. part. 1. p. 54.

† Stromat. lib. iv.

rage and frantic declamations of Calvin and his followers ; and yet this disciple of the Apostles, as if anticipating their vile calumnies, and considering virginity not only in itself, but also in its heavenly reward, is scarcely less diffuse in thus extolling it, than were an Ambrose,\* a Chrysostom,† a Jerome,‡ and an Augustine,§ in later times. See especially letter the 1st. ch. 4th. which he thus concludes ; “ virginibus, ob sublimem illam et heroicam virginitatis professionem, daturus est Deus regnum cœlorum, sicut sanctis angelis.”

St. Clement too, leaves no room for doubt as to the virginity of which he speaks, whilst he distinguishes it from the mere earthly virginity or the vain outward imitation of the Christian virtue which some perhaps may lay claim to without the pale of the Catholic Church. Such is not the virginity which our saint extols. The root of virginity, he says, is in the soul, and the Christian who aspires to it “ must be clothed in every virtue of God ;” living on earth, his thoughts are in heaven, and expressing in his outward actions the inward sanctity of his soul, “ he is ever assiduous in knowing the Lord.” (See p. 17. seqq.) In his exhortations too, he continually dwells on this aspect of virginity, as for instance, p. 25 ; “ Strive to run your course, courageously and fearlessly resting your hope on the promises of your Lord, that thus through Jesus Christ you may attain the glorious crown of your divine vocation.” It was in like manner that St. Ignatius of Antioch|| styled the virgins “ illuminated by the Spirit of God,” *illuminatæ a Spiritu* : St. Basil too defines a virgin “ quæ se sua sponte Domino obtulit et vitam in sanctificatione prætulit.” St. Clement himself in his first Epistle to the Corinthians chap. 38. styles virginity “ a special gift of God.” These words are almost repeated by Tertullian;¶ and St. Cyprian\*\* writes : “ Quod si Christum continentia sequitur, et regno Dei virginitas destinatur, quid est illæ cum terreno cultu et cum ornamentis ? Ad meliora et divina se servat.”

\* De Virginitate, lib 1. cap. 7.    † De Virg. cap. ix. seqq.

‡ Adversus Jovinian, lib. 1.

§ De Sancta Virginitate capp. 1. xiv.

|| Epist. ad Philadelph. ch. iv.

¶ De Virgg. velandis cap. xii.    \*\* De habitu Virgg. cap. v.

Before abandoning this subject, let us now pause for an instant to contrast the action of the Catholic Church, with that of the sectaries without her pale, in regard of the virtue which was so extolled by the disciple of the apostles, or we should rather have said, by the Christian Church in the Apostolic age. It is needless to ask who they are that yet style their profession of this virtue "a remnant of ignorance;" or characterize its sanctuaries as "monuments of fanaticism and superstition." It is unnecessary too, to ask whose unchaste hand first sought to tear away the sacred veil of those who had consecrated their virginity to God; or who they are that now-a-days assail their sacred abodes, calumniate their institute, pour out against them all that the vilest malice can suggest, and persecute them with a shameless violence at which, not alone the pagans of Greece or Rome but even the Gothic barbarian hordes would have blushed. Not so is it in the Catholic Church; ever has she honoured virginity, and reckoned it amongst the noblest gems that can deck her children's crown. With jealous care she has ever guarded its abodes, setting aside for the spouses of Christ the hallowed seclusion of the sanctuary; as though (in the words of a late lamented writer) they were that priceless flower whose sweetest perfume and brightest hue fade and are lost at the slightest breath. Too well was the Church aware of the temptations which might assail it, amidst the scenes of a corrupt world, and what difficulties should beset its path, and hence prepared for it these sacred asylums, wherein it might ever be preserved and cherished and matured. Even in those ages when feudal barbarism and civil strife ruled the world, we find that these sanctuaries of the Christian virgins were left unharmed, and perhaps to the fervent prayers, to the hallowed gifts there incessantly offered by pure hands to the Most High, we are indebted much more than to visible causes and the efforts of men, for those rich heavenly dews which made those very regions bloom as the garden of God. And who can conceive the holy inspirations which are there received—the holy thoughts, the incessant prayers which as sweet fragrant incense ascend thence to the throne of God; and how pleasing must be to Him this spiritual holocaust of those who seek to realize in themselves His own earthly life, and who sacrifice for His love all the enticements which pleasure and

beauty and youth could present? Even to the worldly and profane, how many sacred thoughts should these sanctuaries suggest, whilst amidst the ocean of dissipation they arise, as so many ports of safety, and seem as beacon-lights of a more blessed and heavenly country.

But to return to the Letters of St. Clement.

The teaching of St. Clement as to the divine Inspiration of the Sacred Writings is already well known from his Epistle to the Corinthians, in which he styles them *the true Oracles of the Holy Spirit*: τὰς ἀληθεῖς ῥήσεις Πνεύματος τοῦ ἁγίου (cap. 45.): again, he declares that in the Sacred Scriptures *God addresses us through the Holy Ghost*; and in the Letters now before us we find the writings of both the Old and New Testament continually cited as "the words of God," also by the title '*the Scriptures*,' the emphatic Syriac article being used to designate them. But his teaching as to the inspired writings in these Letters is especially important when he commemorates as portions of them many of those Books which are rejected by the Protestant sectaries of later times.

1. It is thus in regard of the History of Susanna. In the 2nd letter (p. 103.) he speaks at great length of the dangers which beset a life of chastity, and proposes from the 7th to the 13th chapter examples from the Old Law. The first example is that of Joseph, from the Book of Genesis; then follows that of Samson, from Judges, and that of David and his sons, from the Book of Kings. Last of all is the history of Susanna, which occupies all the 13th chapter. In such a context surely no one will deny that the record of Susanna was deemed by St. Clement, and by the Church of his age, an integral portion of the inspired writings of the Old Law. Especially as immediately before citing these facts, he had said: "let us investigate and trace out these dangers from the Book of the Law to the New Testament;" and then having concluded the history of Susanna, he thus begins the 14th chapter: "But now let us see what they (the Scriptures) have also said concerning the Apostles of our Lord," which words need no commentary, as implying of themselves that the preceding narratives belonged to the Old Law, and were found in the Inspired Writings.

2. In like manner the Epistle of St. James is frequently cited as one of the Sacred Books; for instance, in the first letter (ch. xi. p. 51.) it is thrice referred to having the words



premitted, "they attend not to the words of God." It is also cited at pp. 55 and 57.

3. The Book of Ecclesiasticus too is numbered amongst the inspired writings, being ranked by St. Clement with the Book of Proverbs from the Old Law, and the 1st Epistle to the Corinthians from the New. (See 1st letter ch. xi. p. 51: and 2nd let. ch. xiii. p. 103-5.) Indeed, in the last passage referred to, the words of Ecclesiasticus are expressly styled the Sacred Scripture: "Again the Scripture saith." Hitherto St. Irenæus\* was deemed the most ancient witness to the teaching of the Catholic Church in regard of this volume of the inspired writings, but now we have a far more ancient one amongst the disciples of the Apostles themselves.

4. In the sixth chapter of the first letter, St. Clement also cites, as from the Sacred Scripture, some words of the Epistle to the Hebrews, other words taken from the 1st Epistle to the Corinthians being immediately afterwards cited in precisely the same manner. The authority of the Epistle to the Hebrews became a matter of controversy even in Rome in the fourth century; but St. Jerome could even then appeal to *the ancient* writers of that see in proof of its genuineness and authority. His words are deserving of attention: "quod si eam," he writes to Bardanus, "Latinorum consuetudo non recipit inter Scripturas Canonicas...nos tamen suscipimus, nequaquam hujus temporis consuetudinem, sed *veterum Scriptorum* auctoritatem, sequentes, qui plerumque ejus utuntur testimoniis, non ut interdum de apocryphis facere solent, sed quasi Canonicis et Ecclesiasticis." Amongst the ancient writers of the Roman Church thus referred to, surely our Saint must be numbered; and indeed his having cited in the letters now before us, the Epistle to the Hebrews as portion of the inspired writings, can the less surprise us, as in his first letter to the Corinthians, ch. 36, he had already adduced as words of Scripture the beautiful passage in reference to our Saviour, "who being the splendour of the Father's glory, &c." (ch. i. v. 3.)

Another doctrinal point on which Dr. Beelen dwells, is the teaching of St. Clement as to the liberty of our will and the merit of our good works. It would be more than

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\* Adv. Hæres. iv. 26.

useless to refer, at the present day, for the sake of refuting them, to the long since exploded theories which the Reformers of the sixteenth century so vauntingly advanced in regard of these doctrines. The common sense of mankind found these theories too repugnant to every rational sentiment of our soul, not to shrink as if instinctively from them: hence no nation adopted them as the basis of its laws, and all avowed that, though such teaching might flatter proud minds, and serve as a mantle for the evil designs of corrupt hearts, yet no true morality could subsist with it—it could not develope any germ of virtue, or foster any principle which might be destined to exalt the dignity of man, to promote civilization, or entwine more closely the hallowed bonds of Christian love and social brotherhood. And yet amongst the many novelties which Protestantism advanced, perhaps its teaching on this head was the only one which it could well style its own, and which it might propose to the world as a positive ground for testing the genuine character of the principles which gave it birth.

If we now briefly refer to the teaching of St. Clement on this head, it is only that the reader may rejoice in common with us, in reflecting how every monument of antiquity that comes to light bears with it new evidence of the so-called Reformers having vainly assumed the mask of teachers of Christian truth, and of the Catholic Church on the contrary having most justly asserted her claim to be its one sole unvarying depositary. In the first of our letters, ch. 2nd, St. Clement declares that heaven is attained “through the efficacy of faith, that is, by deeds of faith. For he who is truly pious performs those works which proclaim his faith; performing them with a lively faith, a perfect faith, a faith in God, a faith which shines forth in good works, so that the Father of all is glorified in His holy one.” (p. 7.) In the subsequent chapter he dwells at great length on the same necessity of our deeds corresponding with our profession: “the name of Christian,” he says, “will not open to you the kingdom of heaven. For whosoever is a Christian in name, yet does not show himself such in his actions, he is not truly a Christian.” The same doctrine our Saint had laid down with equal clearness in many passages of his first letter to the Corinthians, especially in its 34th and 35th chapters. St. Ignatius too, the glory of the



Church of Antioch, and contemporary of our Saint, proclaims this truth almost in the very words of St. Clement: "The profession of faith is not the deed, but that we persevere unto the end in the exercise of faith." \*

In the passages we have cited it is easy to trace that necessity of good works, and at the same time their essential connection with faith, which the Catholic Church of the present day so clearly lays down. It is not the mere human action that is meritorious of eternal life, but our actions animated by supernatural charity, and springing forth from faith; precisely as the Council of Trent defines, that "faith is the beginning, the root, the foundation of all our justification." It is amusing to see how Protestant writers, even such as are deemed learned by their brethren, are liable to misrepresent or fall into the grossest errors when they attempt to become exponents or assailants of Catholic truth. John Charles Riehm, in his Theological essay, to which the Academy of Gröningen awarded the prize-medal in the year 1819, thus expounds the Catholic doctrine on Justification: "*Quantumvis benigniter de illorum systemate existimes, ita ut in homine justificando requisiverint tantum emendationis initium et virtutis studium, etiamsi ob id homo non justificetur, res tamen, si summam spectes, eodem redit: semper enim tribuitur quoddam, quamvis exiguum, proprio emendationis studio pretium et Christi meritis haud pauca detrahuntur.*" And not content with thus falsifying the teaching of the Catholic Church, he adds: "*Quid, quod eo usque progressus est Thomas Aquinas ut fidem ad salutem necessario requiri negaverit, inquiens, 2. 2. q. 2. art. 3. Videtur quod credere non sit necessarium ad salutem.*"† Had this learned Protestant divine turned over a few pages of the same work of St. Thomas, he would have met with other articles, commencing in like manner, "*Videtur quod Deus non existit:*" "*Videtur quod Deus non sit æternus,*" &c., and perhaps he would have thence concluded that, according to St. Thomas and the teaching of the Catholic Church—God did not exist. What a triumph

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\* See Dublin Review, July 1858, art. 7.

† *Commendatio Theologica, de vindicanda Ecclesiæ Emendatæ super fide salutari sententia.* § 3. p. 17. In annal. Academ. Gröningen. an. 1819-20.

this would be for the Reformed brethren ! He should, however, have held in mind that the words which thus commence these articles do not present the opinions of St. Thomas, but precisely that opinion which he proposes to himself to combat, and which it is his intention in each of these articles to refute. But, the defender of *the Reformed creed* chose rather to unblushingly put forth as the teaching of St. Thomas the very opinion which St. Thomas expressly rejects and combats ; and on these grounds, such teaching too is unhesitatingly imputed to the Catholic Church !

False teachers were not wanting even in the days of St. Clement, and let us now see how vividly he portrays their character. In the 11th chapter of the first letter he says : “ they go<sup>r</sup>around from house to house, not bearing with them the fear of God, and impudent as they are they insinuate manifold errors under the pretence of teaching ; affirming *to be* those things which are not, and becoming negotiators of iniquity in the name of Christ.” Again, in the 13th chapter he says : “ they pretend to be children of light, whilst they are not light but darkness, and their end is in destruction ;” and elsewhere he announces the divine chastisement which awaits them : “ let us dread the judgment that awaits such teachers ; for terrible indeed will be the judgment of those who, lyingly, assume to themselves the mission of Christ.”

We next meet with individual reference to the Holy Sacrament of the Altar. In the 2nd letter, chap. 6th, St. Clement declares that the Holy Sacrifice should not be offered up in places defiled by pagan impiety. The word *Shamesh* is that employed in the Syriac text, it being the liturgical expression of the Syrians to denote the Sacrifice of the Mass : the same word is used Act. xiii. 2, as corresponding with the *λειτούργειν* of the Greeks. Another of the Syriac liturgical phrases is met with in the second chapter of the same epistle, when the holy Pontiff writes : “ Should the Brethren compel us to await with them to celebrate the vigil, and announce to them the holy Word of God, and offer sacrifice.” Here the word *aved* is used, which corresponds to the Latin *facio*, and the *ποιέω* of the Greek liturgy. The whole of this passage may perhaps be illustrated by what Tertullian writes of the early Christians : “ Eucharistiæ Sacramentum, omnibus mandatum, etiam antelucanis coetibus nec de aliorum manu

quam præsentium sumimus.”\* St. Clement elsewhere, (in 1st letter, ch. 5th.) pointing out the end to which virgins should aspire, namely, “to receive the crown of light, and be led triumphant through the heavenly Jerusalem,” commemorates the virtues which they must practise in order to attain this end, and presents the Blessed Eucharist as the special means which God has granted to strengthen them in attaining it: “Conquer the desires of the flesh,” he says, “conquer the world in the spirit of God; despise the vain things of this transient life, and vanquish Satan through Jesus Christ, who strengthens you by His heavenly teaching and by the godly Eucharist.” How forcibly these words present to us the blessed fruits of this sacrament!

Another important subject of these Letters, and one which cannot be omitted is, *the perpetuation of miraculous gifts in the Church*, and of the supernatural grace which was granted to the faithful to expel by their prayers and exorcisms the evil spirit from those who were possessed. St. Clement speaks at great length on this subject; indeed the whole twelfth chapter of the first letter, from page 57 to 65, regards this gift of God, whilst in other passages incidental allusion is also made to it. A few words extracted from the first-mentioned chapter will suffice to convey the sentiment of the whole: “This too behoveth the Brethren in Christ, and is good and proper in them, that they should visit those who are assailed by evil spirits, and with those prayers which are pleasing to God, pray for them, and with effect make the adjurations over them. In fasting and prayer let them exorcise them. By your fasting and prayers, and continual watchings and other good works, mortify the deeds of the flesh in the power of the Holy Ghost: he who thus acts becomes a temple of God: he will cast out demons, and God will be with him.” The frequency of this heavenly gift in the primitive Church is attested by many of the other earliest Fathers. St. Justin frequently commemorates it, and Tertullian more than once makes it the principal of his arguments against the pagan persecutors; thus, for instance, in the 23rd chapter of his Apologeticum he writes: “Edatur hic aliquis sub tribunalibus vestris, quem dæmone agi

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\* De corona militis. cap. 3.

constat. Jussus a quolibet Christiano loqui, spiritus ille tam se dæmonem confitebitur de vero quam alibi Deum de falso;" and again: "quis vos ab illis occultis et usquequaque vastantibus mentes et valetudines vestras, hostibus raperet? a dæmoniorum incursibus, dico, quæ de vobis sine præmio, sine mercede depellimus."

It will hence perhaps surprise the reader to learn that one of the weightiest arguments advanced against the genuineness of these Letters of St. Clement is precisely "the use in them of the words *ἐξορκισμος* and *ἐξορκιστής* which were unknown to the early Church.\* Indeed, as the Syriac version alone of these Letters is extant, we may easily see what a hardihood of assertion is required to make so bold a statement in regard of the original text. It is true the Syriac word *awmi* expresses the same idea which is involved in the Greek *ἐξορκισμος* but we can only conclude thence as to the *ideas* which were found in the original Greek letters, and not as to the individual words which were employed. Had our adversaries, however, visited the Catacombs of Rome and explored the monuments of that church so enriched with martyrs and so "beloved of God," they would have seen more than once recurring on its sepulchral loculi, these self-same dreaded words, which, it is so boldly said, were unheard of in the early Church. For instance, in the cemetery of St. Callixtus, the slab of—Paulus Exorcista Depositio Martyris—and another is cited by Gruter to—Januarius Exorcista. But should our adversaries be afraid to intrude amidst these dwellings of our martyred forefathers—the witnesses to early Catholic faith—perhaps they might at least open one of the most trite works of the ancient Christian writers, that is, the famous Dialogue of St. Justin Martyr with Trypho; and in it they will find that very word *ἐξορκίζειν* employed to designate the expelling of the Demon from those who were possessed.

It is now time to bring this article to a close. But we cannot conclude without calling attention to the zeal with which the study of Oriental literature is pursued under the guidance of Dr. Beelen in the University of Louvain. His untiring labours have in a few years won a high

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\* Venema *Epistola ad Cannegieter* ? v. p. 104 seqq.

position for the exegetical school of that University, and the establishment of a Hebrew and Syriac press, as well as the many works which have been given by him to the public, sufficiently attest, not only his learning and ability, but also the manly energy and vigour with which he has applied to these pursuits, and which have lately won for him the high eulogy of the reigning Pontiff, our holy Father, Pius IX.

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ART. IV.—1. *A Letter to the Earl of Shaftesbury on the present state of the Laws which regulate private Lunatic Asylums.* By E. J. Seymour, M.D. London: Longmans, 1859.

2.—*The Letters of Dr. Mayo and Dr. Winslow in the Times, Dec. 29th and Jan. 1st.*

3.—*The Examiner, Dec. 25th, 1858.*

IT has been made a reproach against the Papal government that its system of judicature and jurisprudence is too ecclesiastical. But the more deeply we study the laws and science of justice, the more clearly do we come to see that it must be based upon moral theology. A shocking and alarming illustration of this is afforded by the present aspect of our criminal judicature in consequence of the practice which has come almost to a doctrine, of acquitting the very worst of murderers on the score of insanity. It seems as if wrong notions of sin had destroyed the true idea of moral responsibility. Or as if everything were made to conform to a species of *materialism*. And the disposition that has arisen in the popular mind to refer crime to mental incapacity rather than moral depravity is becoming so rooted, that it will soon be found difficult to convict the most atrocious murderer. For, from the very atrocity of the crime our juries infer insanity. For this there is not the least foundation, either in our own common law, or in the law of any European state. And therefore, the fact that the notion has

arisen and taken such deep root, is a remarkable illustration of a change in the national mind.

Our old law writers liken lunacy to infancy ;—that is, they represent it as a state in which there *may* be no criminal responsibility ; the test of its existence being—*consciousness of crime*. Thus in Lord Hale, cases are put of children under fourteen (above seven) convicted and executed for murder, because the circumstances of their conduct (as in hiding the body, &c.) showed that they knew they were doing wrong. The degree of mental capacity, it is obvious, has nothing to do with such a test. Otherwise the question must arise in cases of ignorance as well as of infancy or lunacy ; and we must have an enquiry in each case whether a person has been duly instructed. The test, in cases of lunacy, as well as of infancy, was always considered to be this—whether the lunatic knew he was doing wrong.

The first great authority on this subject in the law of England, is that of Lord Hale, who laid it down thus : “ There is a partial insanity and a total insanity. The former is in respect to things ; and some persons that have a competent use of reason in respect to some subjects, are yet under a particular *dementia* in respect to some subjects or persons. Or else it is partial in respect of degrees, and this is the condition of very many, especially melancholy persons, who for the most part, discover their defect in excessive fears and griefs, and yet are not wholly destitute of reason. And this partial insanity seems not to excuse them in the committing of any offence for its matter capital ; for doubtless most persons that are felons (murderers) of themselves are under some degree of partial insanity when they commit the offence. It is very hard to define the indivisible line that divides perfect and partial insanity ; but it must rest on circumstances to be duly weighed and considered both by judge and jury.” Not, be it observed, as if it were a mere question of medical science, like bodily infirmity. So as to the law of Scotland, which in this respect differs not from that of England, and as it is founded more upon the civil or Roman law, this conformity goes far to show that it is morally sound. “ To amount to a bar to punishment, the insanity must have been of such a kind as entirely to deprive the prisoner of the use of reason as applied to the act in question, and the knowledge that he was doing wrong in commit-



ting it. If, though somewhat deranged, he is yet able to distinguish right from wrong in his own case, and to know that he was doing wrong in the act which he committed, he is liable to punishment." In one old case the judge said that "it is not every frantic humour of a man, or something unaccountable in his actions, which will show him such a madman as to exempt him from punishment," which is quite in accordance with the authorities before cited.

The principle, it will be observed, is, that the question is to be determined upon all the facts and circumstances: not as a mere question of physical health, but upon the whole acts and conduct of the man; his capacity to be practically tested by his doings and dealings with other matters. Every one may remember the case of Earl Ferrers, who in the reign of George II. was tried before his peers and convicted of the murder of his steward, and executed. That was a remarkable case in which the true principle of jurisprudence was strongly tested, but unflinchingly applied. The Earl had locked the steward in a room with all the appearance of great resentment, and shot him.

Several witnesses proved that the uncle of the Earl was lunatic; and it appeared that several of his relations had been confined as lunatics, yet the defence did not avail, and he was unanimously found guilty by the House of Lords. This, then, was a solemn judicial decision of the highest tribunal in the country, (in which there sat the great Lord Mansfield, and the illustrious Lord Hardwicke,) and the case deserves particular attention, because it is conceived to show very clearly the groundlessness of the acquittals which have of late years taken place, and the gross departure from law which they involve. Thus, it having been distinctly proved that several of the prisoner's relatives had not only been deemed lunatics, but actually confined as such, and the House nevertheless having convicted him—this case is a solemn judicial affirmation that a prisoner cannot on *that* ground set up the defence—and that it must be distinctly shown that *he himself was insane*. Otherwise the monstrous result would certainly follow that no man can be convicted of murder; for assuredly such is the spread of lunacy in this country, and such the number of a man's collateral relations, (amounting, as Blackstone points out, in the

course of a few degrees, to scores or hundreds,) there is hardly any one of whom it may not be said that there had been lunacy in some connections of his, more or less distant; and it is known that these hereditary traits or infirmities often reappear or disappear, slipping one generation and appearing in another, in a manner most unaccountable. In the case of Earl Ferrers, who did not succeed his father, but his uncle, in the earldom, it was proved that his uncle, and also an aunt, had been under care or confinement as lunatics. The brother of the prisoner, a clergyman, deposed that he sometimes fell into violent passions without any adequate cause, on which the Attorney-General pressed him thus: "Do you deem every man that is transported with anger, without any adequate cause, to be a madman?" The witness was obliged to answer: "A man may be transported to fury without an adequate cause, but yet be no madman;" an answer rather equivocal, for a man may be no madman, and yet be a lunatic. But probably that was a slip. Another witness who said that he "had known the Earl from his cradle, and considered him a lunatic," was asked by a noble lord, "Did you ever perceive him so far deprived of his senses as not to know that robbery or murder was an offence against the law of God and man?" The witness was obliged to answer, *No*. And no doubt that answer hung the Earl. Dr. Monroe, the physician, was called in his favour, but to no avail. The House of Lords did not attach such weight to the *dicta* of physicians as to give evidence for a man, as judges or juries have been disposed to do in later times. The Doctor said the symptoms of lunacy were "unconscious fury," "jealousy without cause," &c. He was asked, "whether lunatics, when they are angered with *or without* cause, *know what they are doing*?" The Doctor's answer was, "*Sometimes as well as I do now*," which the prisoner himself showed in his own person. For he defended himself with incredible shrewdness, and that no doubt helped to condemn him; but in real truth it was putting in a more remarkable and striking light, the absurdity of the idea that lunatics are necessarily always irrational. It is very observable that the Earl himself said, "If I could have controlled my rage, I am answerable for the consequences of it; but if I could not, and it was the mere effect of a distempered brain, I am not answerable." But what



decided the case was the evident deliberation and *design*. The Earl, after a certain event, threatened to shoot his poor steward, locked him in a room, and wanted *him to sign a paper*, and on his refusal shot him. "That was relied on by the Crown counsel as showing that if he knew enough to design the act of homicide for a *purpose*, however unreasonable his malice may have been, he must have known enough to make him answerable." Moreover it was proved that the ill-will to the steward had a supposed *cause*, however unreasonable, viz., his imagined concern in the passing of a private act of parliament affecting the Earl's estates; for from that time his frantic rage against the man displayed itself.

This raises the important question intimately connected with the one we are considering, viz., how far evidence of facts raising an inference of *motive* in the prisoner, is admissible. The question is often one of the most difficult in the criminal law; but at all events, in Earl Ferrers' case the evidence alluded to was given, and it was doubtless deemed decisive, to show that however disordered the prisoner's mind was, and however subject to material fits of passion and frantic rage, nevertheless he had enough use of reason to put things together in his mind—to draw inferences, however unreasonable, leading him to a certain act of revenge—to plan that revenge—to *know* that he was going to kill the person he disliked, and deliberately and designedly to do it. And this the House of Lords deemed murder. The Solicitor-General urged these topics thus: "The Earl *gradually wrought himself up* to a resolution of destroying Mr. Johnson." "After the passing of the act he gave marks of resentment. He showed that he *intended to shoot* Johnson. Can there be clearer proof that the Earl weighed the motives of his action? That his conduct was not absurd, but rational and consistent? The same crime has been committed in all ages, upon grounds as slight, by men who never thought of setting up the defence of insanity." "Motives like these suggested might easily and naturally work upon one whose course of life betray so many marks of ungoverned passion, though the same motives would not have influenced tempers less susceptible of violence than his own."

So the House of Lords thought. And that, it is conceived, is the true view of such cases. It shows that men-

tal infirmity, merely arising from moral vice, and the long indulgence of ill passions, cannot be an excuse for crime, or the very malignity of a man may be said to destroy his responsibility, and the greater the depravity the easier the immunity.

There are some things worthy to be noted in this memorable case, in contrast with those cases of a similar character which have occurred in our own times. And above all it is to be noted that, though the wealth and position of the Earl were such that of course he could have procured any number of professional men, of the highest standing, to attend him, and examine him, or to attend the trial, and then (such of them as could do so,) testify their opinion of his insanity, either from their own examination, or from the facts deposed to at the trial; no such course was even attempted, and if it had been, it is plain from what passed at the trial it would not have been allowed. For the only medical man who was called (Dr. Monroe) had known the Earl *long before the act*, and even he was rigidly confined to the symptoms of insanity, as a matter of fact; and when it was proposed to ask him *his opinion on the particular case*, the *Lords would not allow of it*. And it is to be observed that the Earl, although counsel could not in those days be *heard* on his behalf, *had the full advantage of counsel*, in advising him, and (if necessary) in arguing points of law; and they never ventured to advise him to press the admissibility of the kind of evidence alluded to on the particular question and which was rejected.

In the next place it is to be observed that not only did they not venture even to propose to call any witness who had not known the Earl *before the act*, but the law officers of the crown directed their cross-examinations to this point, and pressed it with fatal effect in reply, whether before the act he had not been allowed to, and had not in fact *managed his own affairs*, and shown sufficient sense to do it. The questions they asked were such as these: "Did he ever give an irrational answer? Did he manage his affairs? Was it easy to impose upon him? Did he talk like a fool on his own affairs? Did he express dissatisfaction or resentment on such and such a matter, and was that expression of feeling such as to show that he was sensible of the nature of the matter he spoke of?" The answers to all these questions were contrary to the theory

of insanity. And surely these are tests of a practical and sensible character, which it would be impossible to doubt. And accordingly attempts were made by the members of his family to prove that they had *thought* of taking out a commission of lunacy against him. But they *had not done so*.

It is true that witnesses were called who proved that his conduct at times was erratic and frantic, that he was called the 'mad lord' in the country, and that his friends and relatives avoided him as lunatic; but when his confidential solicitor, who was one of the witnesses, was pressed by the Attorney-General thus: "Did you, on your conscience, upon the whole, think him insane, or a proper subject to be under the care of a physician, or the Court of Chancery?" he answered: "I should think a commission of lunacy could not have been taken out against him, because he was insane only at particular times, and in particular instances. At the times I have seen, I am sure that if a jury had been to enquire touching his sanity, they would have found him a lunatic." But then the Attorney-General at once disposed of this by eliciting that the solicitor transacted business with him, and never advised the family to have him sequestered. And one noble lord asked the significant question, "Did you ever see him incapable of judging between a moral and an immoral act?" to which the answer was, *No*. And at once it will be observed, that all the evidence admitted was as to his condition of mind *before* the crime alleged.

It may be interesting to have Lord Brougham's commentary on Ferrers' case.

"It was proved that he was occasionally insane, and incapable from his insanity of knowing what he did. That was a great deal more than not knowing right from wrong, or not judging the consequences of his actions, for he did not know what he was about occasionally; yet, as it was proved that when he committed the offence, he had capacity sufficient to form a design, and knew the consequences; he was found guilty and executed, not because he knew right from wrong, or could distinguish good from ill, but because *he knew what he was about and could form a design*. There was evidence that his friends were going to take out a commission of lunacy on the Earl, but yet he was executed."

It will be observed that Lord Brougham states it as **view** that the Earl was proved to be occasionally

insane. That is the judgment of that noble and learned lord upon the evidence, and it is a very valuable judgment and greatly enhances the importance of the case, because it amounts to a judicial affirmation by the highest tribunal, that a person subject to insanity may be convicted of murder, if not proved insane at the time he did the act, and *in the very doing of the act*.

That was considered to be the law upon the subject even in the dark days of George II., probably the darkest and most irreligious in our history. They would not listen to the doctrine that crime was merely a proof of insanity, as we have done.

The case of Hadfield, tried a quarter of a century later, for the attempt to murder George III., was the first modern case which directed attention to the question. The case was tried "at bar" before the full court, and the prisoner was defended by the illustrious Erskine. Yet *he*, the prisoner's advocate, only ventured to argue to this extent: "When a man is labouring under a delusion, if you are satisfied that the delusion existed *at the time of the committal of the offence, that the act was done under its influence*, then he cannot be considered as guilty."

To that extent the doctrine was admitted by the Court, and as the Crown could not answer the evidence of insanity existing at the time, the prisoner was acquitted. But observe, it was proved that Hadfield had received a wound in the head, which *might* lead to insanity, and not merely so, but that it *did* produce insanity, and that he had been discharged from a military hospital as insane. Nor was that all. It was proved that three days before the act he had fancied himself God, and that within a few hours of the act in question he had attempted the life of an only child, an infant, whom he had tenderly loved. So here again, insanity was not inferred from the act in question, but proved from facts which had *before* occurred; and above all that he had been put under restraint as insane, and had committed another act which was deemed insane, before the one of which he was accused, and which had no connection with it. Thus we see the law as laid down in Ferrers' case, adhered to and upheld.

In 1812 occurred the case of Bellingham, who, it will be remembered, shot Mr. Percival at the door of the House of Commons, and was tried, convicted, and executed for murder. It appeared that the prisoner had entertained a

groundless notion that the minister had injured him, and denied him redress, and it was attempted to make out this was an insane delusion. But this would not do then. And the Chief Justice Mansfield, (not, of course, Lord Mansfield,) told the jury,

“There is a species of insanity where people take particular fancies into their heads, but that is not a species of insanity which can excuse any person who has committed a crime, unless it so affects his mind at the particular period when he commits the crime, as to disable him from distinguishing between good and evil, or to judge of the consequences of his actions.” “The question is whether you are satisfied that the prisoner had a sufficient degree of capacity to distinguish between good and evil, and to believe that he was committing a crime when he committed the act, in that case you will find him guilty.”

They did so, and he was executed. There was not the least hesitation, nor relenting. The defence of insanity was set up, but would not be listened to. Bellingham was a broker, who had sustained losses which he fancied the government was bound to redress, and his memorials had been disregarded. There was, therefore, as in Ferrers' case, a foundation in fact for resentment. Whilst he lay in prison the late Mr. Wilberforce went to see him. He acknowledged that it was a most lamentable occurrence, deplored his victim's fate, declared that it grieved him, and when asked, “Why then did you kill him?” the answer was, “Oh, that I could not help; it was inevitable, I felt I must do it.” This was after conviction.

Now it is remarkable that many other atrocious criminals have, when apparently they had no motive for the statement, and when certainly it could not affect their fate, made most solemnly a similar declaration, in some cases stronger still. Thus, in the case of the murder of Mr. and Mrs. Bonar, at Chislehurst, (soon after that of Mr. Percival,) the assassin solemnly protested to Sir Astley Cooper that he had no idea of the deed until a few moments before, when he felt himself in the middle of the night vehemently and irresistibly urged to it.

Nor is there any reason to doubt, but rather, upon Catholic principles, every reason to believe, that these statements may in some cases, probably more or less in all, be true, viz., that there is a violent impulse to do the dreadful deed, proceeding beyond all question from some

foul spirit, urging on the human soul to guilt. But what is that after all but temptation? What is it but the call of every sin? That indeed is the very worst kind of sin, yielding to impulses which must be of the devil. That such impulses should ever be deemed "irresistible," is a singular illustration of the lamentable result of ignoring the existence of grace. And this shows how inevitably we find ourselves in questions of criminal law, brought down to moral theology as the basis of all true views. There are two practical tests, however, which we should think might conduce to just conclusions on the subject; one is, that in cases of *genuine* lunacy the individual is more prone to hurt himself than others; for which reason simulated lunatics often affect to wound themselves. The other—that in cases of pretended lunacy—as in the cases of Bellingham and Ferrers, there is always—if we know all—a real, rational foundation in fact for resentment and revenge—however unreasonable it may be.

In 1812, six months after the trial of Bellingham, a case occurred in which the prisoner had entertained a great antipathy against one Burrowes; there was no foundation in fact for the antipathy, at least so far as was known. And there is often the fallacy in such cases, which assumes that, because no reason or motive for the crime is proved, therefore the crime was irrational, while all the while there may be some secret cause of hatred or lurking thirst for revenge, undiscoverable, but perfectly rational, arising from some long concealed, long cherished and on that very account more deadly and malignant animosity. However, in this case no such cause was proved, and without apparent cause but with the utmost deliberation, the prisoner loaded and levelled his gun and shot Burrowes. The defence set up was insanity: and about a month before he had been proved a lunatic under a commission *de lunatico inquirendo*: The learned judge, the late Mr. Justice Le Blanc, laid the law down thus:

- "It is for you—the jury,—to determine whether the prisoner, when he committed the act, was, or was not, incapable of distinguishing right from wrong; or whether he was under the influence of any delusion with respect to the prosecutor, which rendered his mind at the moment insensible of the nature of the act he was about to commit: since, in that case, he would not be legally responsible for his conduct. On the other hand, provided you should be of opinion, that when he committed the act, he was



capable of distinguishing right from wrong, and was not under the influence of such a delusion as disabled him from distinguishing that he was doing a wrong act, he is answerable to the laws of his country, and guilty in the eye of the law."

It is clear that the effect of this was; did the prisoner, when he did the act, mean to kill, and know that what he did was wrong? The jury thought that he did; and he was found guilty and executed. Baron Alderson said in a subsequent case of the kind that this was "barbarous." Why so? It was the case of Bellingham over again; except that in the one case we knew the foundation, in fact, for resentment; in the other, it was to be perceived from the deliberation and the design and the existence of resentment.

The law is, that he who slays another must shew why he did it. And instead of presuming insanity from a crime of which we do not know the foundation or the motive, we should rather presume the motive from the act. Two cases were afterwards tried with very different ideas and results, and they well illustrate the fallacy likely to arise in such cases. In one, tried before Mr. Justice Park, the prisoner—indicted for the murder of his grandfather—was defended on the ground of insanity, and though there were no proofs of previous acts of insanity, the jury inferred it from the circumstances of the case. That was the first of the long series of cases we have since had, in which, contrary to the clearest law, juries have inferred insanity merely from the very depravity of the deed. In another case tried before Lord Lyndhurst, that great lawyer told the jury, on the contrary, that they must be satisfied, before they could acquit the prisoner on the ground of insanity, that he did not know when he committed the act, what the effect of it, if fatal, would be with reference to the crime of murder.

In the case of Oxford, tried for shooting at the Queen, the law was laid down by the Lord Chief Justice, (Denman,) assisted by the late Mr. Baron Alderson, and by Mr. Justice Patteson, to the same effect as in previous cases, viz., that if the prisoner, at the time of the act, was labouring under such disease of the mind as not to know whether he was doing right or wrong, in that case he was not a subject for a criminal charge. "The question in such a case is, whether the prisoner was labouring under that ~~an~~ <sup>degrees</sup> of insanity which satisfied the jury that he was



quite unaware of the nature, character, and consequences of the act he was committing; in other words, whether he was so under the influence of a diseased mind that he was really unconscious at the time that he was committing the act, that it was a crime." The evidence in that case was peculiar, and reminds one of the Carbonari or secret societies in Italy. The prisoner was proved to have purchased pistols and bullets, and to have loaded the weapons with which, twice over, he deliberately fired at the Queen. At his lodgings were found powder, bullets, a black crape, a sword and scabbard, &c., and a pocket-book, containing papers which he said he had intended to destroy before he went out. Among these was a paper headed "Young England," and setting forth certain "Rules and Regulations," as that every member must be provided with a brace of pistols, &c., and take the oaths of allegiance to the cause. There was "a list of principal members, fictitious names," and then followed such names.

On the part of the prisoner several witnesses, relatives and connections of the family, were called, to prove the state of mind of the prisoner's grandfather. They all stated that he was, in their judgment, of unsound mind, but most of the instances they gave were rather instances of great violence of temper. However it appeared that he had a complaint in his head, and used to call himself the Pope of Rome. The prisoner's mother was called to prove insanity in the *father*, both before and after her marriage with him, and she stated that the prisoner's brother was an idiot. There could not well be stronger evidence of insanity in the family.

But the House of Lords had long ago held that this would not do, and that evidence offered to show that the prisoner was insane, was rejected; and here was the weakness of the case for the defence, for the facts shown tended to prove depravity rather than insanity, as that he struck his mother, and was sullen, &c. Several eminent medical men were called for the defence, and this appears to have been the first case in which the plan was resorted to of feeing men of eminence in the profession to come and testify to a prisoner's insanity. Lord Denman seems to have viewed this system with suspicion, for he said in his charge, "It may be that medical men may be more in the habit of observing cases of this kind than other persons, and there may be cases in which medical testimony may

be essential; but I cannot agree with the notion that moral insanity can be better judged of by medical men than by others." And then the Lord Chief Justice laid the law down as above quoted. But in the course of his summing up he dropped a sentence in which perhaps may be found the germ of that noxious doctrine of uncontrollable impulse which has been developed since with such fatal effect. His Lordship said, "If some controlling disease was in truth the acting power within him, which he could not resist, then he would not be responsible." And no sufficient care seems to have been taken to guard against its being supposed that this "controlling disease" might be a mere moral disease, arising from habits of indulged passion, or cherished malignity of disposition.

Taking advantage of this fallacy, and of the precedent afforded by Oxford's acquittal, (which perhaps proceeded partly on political or loyal sentiments,) Sir Alexander Cockburn, with the aid of his powerful eloquence, gained the acquittal of the murderer Macnaghten, who so foully murdered Mr. Drummond on account of some imagined slight. It is curious that this accomplished orator should have commenced his fine displays of advocacy with a miscreant like that, and have ended with the defence of a man like Dr. Newman.

The case of Macnaghten's was thus summed up by Lord Brougham, in the House of Lords. He had shot Mr. Drummond, meaning to kill Sir R. Peel:

"The accused went four or five times to Sir R. Peel's house, for the purpose of ascertaining who Sir R. Peel was. He formed his conclusion that a certain individual was the person in quest of whom he went, because he saw him four or five times come from the house, and go to what he knew to be Sir R. Peel's house. The man drew the conclusion, which any sane man would have drawn, having taken the steps which any sane man would have taken, to inform himself on the subject. The man no doubt was mistaken, but so might any sane man be. The man having determined to kill Sir R. Peel, took exactly the same steps to accomplish his purpose that a sane man would have done; he purchased the pistols, and to make sure he purchased two; he used powder and ball, charging both the pistols, as anybody might do who wanted to kill; he then went and waylaid his victim, firing one pistol so near that it hit or grazed his victim. Not satisfied with that, he did just what any other person in his senses would have done who wanted to make sure of his bloody work, and fired again, or was going to fire

again, when he was seized. All this was like the conduct of a rational man, in the full possession of his senses."

At the trial, medical witnesses, who had not seen the prisoner before the trial, and had only been present and heard the evidence of other similar witnesses, were allowed to be asked what, upon the facts proved, was their opinion as to his sanity at the time of committing the act. It was upon the answers to these questions that the result probably turned; and it will be observed that the evidence was clearly contrary to the general rule of law, and was open to the animadversions made upon it by the late Lord Denman, in Oxford's case. The practical effect was to substitute the medical witnesses for the jury, and to overbear the latter by the apparent weight of their authority, although, as the Lord Chief Justice himself had observed, they were no better judges (in law) of the fact of insanity at a particular time than the jury, and could only properly offer their evidence as to the causes or the symptoms of insanity, leaving to the jury to determine whether those causes had existed, or those symptoms had been manifested in the particular case. And the evidence was open to this far greater and more serious objection, that these medical witnesses were in reality paid for giving such evidence. That is, they received large fees for consultation, and then it being ascertained that their opinions would be favourable, they were summoned as witnesses, and were allowed to be examined, not merely as to matters of fact within their professional knowledge and experience, but also as to their judgment on the facts proved in the particular case, the result of which, of course, was to lead the jury to hesitate in exercising their own judgment in opposition to that of such apparently skilled witnesses; whereas in truth, as Lord Denman pointed out, although they might have more experience in the symptoms of insanity in other cases, that did not make them better able to judge as to the probability of insanity in the particular case at the time of committing the particular act.

The acquittal of Macnaghten for the murder of Mr. Drummond, on the ground of insanity, at the Central Criminal Court, in 1843, gave rise to a discussion in the House of Lords, and questions were submitted to the judges, to elicit their opinion on the subject, in order to allay the alarm and apprehensions which had been ex-

cited in the public mind in consequence of that acquittal. So great was the sensation it created, that the next day after the acquittal, it was made the subject of discussion in the House, and Lord Brougham said, that unless some course were taken as to the state of the law respecting the crimes of persons alleged to be labouring under partial insanity, he should feel it to be his duty to call attention to the subject. Lord Denman also said that "the matter required the most careful consideration." Lord Campbell declared that "persons labouring under partial insanity were not relieved from responsibility, unless it was proved that insanity *existed at the time*, and might be duly considered as the immediate cause of the criminal act, there was no immunity from punishment." By which, of course, the noble and learned lord had meant, no *legal* immunity. The Lord Chancellor, Lord Lyndhurst, said, "he had already turned his attention to the subject, with a view to remedy the evil, and intimated that he had resolved to consult the Judges." It happened to the writer to be present when the Lord Chancellor, in the course of a week or so, again called the attention of their Lordships to the subject, in a speech replete with his usual ability, and exciting a most painful interest. "The circumstances connected with the late trial," (said his Lordship,) "have created a deep sensation amongst your Lordships, and also in the public mind. I am not surprised at this. A gentleman in the prime of life, of a most amiable character, incapable of giving offence, or of injuring anyone, was *murdered* in the streets of the metropolis in open day." (It will be observed that the Chancellor used the word '*murdered*.') "The *assassin*" (here again the term used denoted the conviction of legal guilt,) "was secured; he was committed for trial; that trial has taken place, and he has escaped with impunity. Your Lordships will not be surprised that these circumstances should have created a deep feeling in the public mind; and that many persons should have been disposed to think, that there is some great defect in the laws of the country with reference to the subject." His Lordship then proceeded to argue that there was *not*, and that the fault lay, not with the law, nor with the judge, but with the *jury*. The case, be it observed, was not one of general and complete mental aberration, but of that description of insanity which consists of a delusion directed to one or more persons or

subjects. But the Lord Chancellor showed that the principle to be applied was the same, the test being whether the party knew, at the time, the nature of the act he was committing. And having shown that this was the test applied by the law, he argued that no new measure would be of any use, and, by implication, of course threw the blame upon the jury, where it certainly lay, and where it has lain in many cases since. The Lord Chancellor went on to say: "I have heard it said the object of punishment is the prevention of crime; we do not punish by way of retribution, or in a spirit of vengeance upon guilt, but to prevent others from committing a similar error. Therefore, it is said that although a man is under an insane delusion at the time he commits the offence, yet knows what will be the *effect* of the act he commits, i.e. if he knows that if he fire a pistol it will kill a man, that is a supposed reason for carrying the criminal law into execution against him, to prevent others from committing the same crime."\* But the Lord Chancellor denounced that view, and he cited it as wholly untenable in *law*.

"We punish, it is true, to deter others from committing similar offences. But do we punish persons incapable of committing the crime for which we punish? The argument is a logical absurdity. You punish the dog; granted: but not as an example to other dogs." No: but surely here was a logical error. We punish the dog; not to deter others, it is true, but to deter *himself* from the commission of the same crime, because we don't happen (except in *very extreme* cases,) to punish dogs capitally. But the argument is as good for one dog as for another, and we believe dogs have sense enough not to do what they *see* other dogs punished for. But, however, it is not necessary to enter into that question further; undoubtedly the law requires that the lunatic should know that he was doing what was wrong, as well as that he should know what would be the effect of what he did. But it requires no more. To require more would make criminal responsi-

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\* There is, however, so far foundation for this view in fact, that those who have the care of lunatics testify, that they are quite sensible to threats, and can be deterred from violence by the fear of punishment; indeed it is a remarkable fact that when homicides by lunatics occur in lunatic asylums, alas! the murders that there take place are perpetrated *upon* lunatics.

bility depend upon moral light, or even the degree of grace which a man possesses. That of course cannot be argued by any moralist, for it would do away with criminal responsibility altogether; since no man commits a crime except through loss of light and grace. But he loses light and grace by sin, and one sin cannot excuse another. There is a painful question indeed how far a state of society, in which light and grace are practically never brought to men at all, so that they cannot be said to have lost what they never possessed; the light and grace of baptized and instructed Christian souls, how far such poor creatures should be punished. That is a fearful question, raising great questions of the day, and going deep down into the very foundation of society and the very basis of social law. And perhaps it is only to be solved by the very process by which the question of lunacy is practically solved, viz., by making the test to be whether the man knows the effect of his act, and knows that it is wrong. In cases of murder—and none others are now capitally punishable—let us hope that few, if any, are to be found who don't know that to kill a fellow creature is wrong. And that was the test laid down by Lord Chief Justice Tindal, in Macnaghten's case, and approved of by the House of Lords:—"Whether at the time the act was committed the prisoner had not that competent use of his understanding, as not to know what he was doing in respect of the act itself, that he was doing a wicked and wrong thing, or whether he was not sensible at the time he committed the act, that it was contrary to the laws of God and man; if he was not so sensible he is not responsible." And Lord Lyndhurst dwelt upon the fact that the Crown counsel did not call any witnesses to contradict the theory of insanity. But then that was doubtless because they felt that if such evidence—the evidence of medical men who have not known the prisoner before the act in question—were admissible at all, it could not successfully be combatted, because juries are *told* to give the accused the benefit of any doubt. And the real root of the evil was this; that the evidence was utterly inadmissible. The Lord Chancellor was satisfied that the Judges were not to blame at all events. Lord Brougham animadverted with great severity on the evidence of the medical witnesses, and declared what no one has ever doubted or disputed, that in principle, and according to



general rules, the questions allowed to be put and answered by them, as to their judgment on the effect of the evidence were *inadmissible*. To those questions and answers the noble and learned Lord, and the Judges, attributed the result of the trial. How indeed could it be expected that the jury would incur the responsibility of sentencing the prisoner to death in the face of a host of medical witnesses, that he was insane at the time he did the act, and could not have known what it was he did, or that it was wrong to do it? This was virtually substituting the *prisoner's paid witnesses*, or rather advocates, for the jury! No wonder that he was acquitted. But the acquittal shocked and staggered all England. Lord Brougham said emphatically, "if the perpetrator of the homicide knew what he was doing; if he had taken his precautions to accomplish his purpose; if he knew at the time of doing the act, that it was forbidden by law, that is the test of sanity and responsibility."

Lord Campbell agreed in this, and disapproved of the conduct of the Lord Chief Justice stopping the case, and reprobated "the impression on the public mind that, if a certain number of medical witnesses, generally called 'mad doctors,' came into court, and said that in their opinion the prisoner was insane when he committed the act, the trial was to be stopped." The noble and learned lord spoke with his usual shrewd sense and sagacity on the subject. "The question of the prisoner's sanity at the particular time is not to be put to them, it is a question for the jury, not for the witnesses. It would be most dangerous if it were to go abroad that the mere expression of a medical man's opinion must be taken as conclusive. A very distinguished medical practitioner, Dr. Haslam, said, not only that there were many who were more or less insane, or that all of us had been insane at one period of our lives, but that we were *all* insane. The public mind has been inundated by medical books, calculated very much to mislead juries in cases of future trials of a similar kind. The books speak of what they are pleased to call a *homicidal propensity*, and contend that no man under the influence of such a propensity should be held liable for his acts. Dr. Alison said, a mad person may be aware that murder is a crime, but may believe that a particular homicide is no way blameable, because he may believe that certain persons have entered



into conspiracies against him, or that some person may be his mortal enemy. Now if this view of the case be at all correct, there is no doubt that a man acting under the influence of unfounded jealousy may murder the object of his suspicion, and afterwards be acquitted on the ground of insanity." Lord Cottenham also spoke of the latitude of definition which medical men were apt to attribute to the notion of insanity. "There was one, (he said,) who said he did not believe that there were a great many persons who had a mind altogether sane. That is the error which medical men are likely to fall into." And there, no doubt, is the mischief and the danger of the modern system.

Of course it was the duty of Lord Lyndhurst, as Chancellor, and head of the law, to defend the administration of justice, and Lord Chief Justices would naturally take the same view. But the keen intellect of Lord Brougham detected the very fallacies which we have alluded to as lying latent in some of the observations of the Judges, and to which are to be ascribed the mischievous impressions since prevalent among juries. "Good and evil," "right and wrong," said that noble and learned Lord, "why these terms themselves are open to the greatest latitude of construction and difference of opinion. If it meant that the lunatic must have known what was the nature of the act he did, and that it was forbidden, that is intelligible; but the more general definitions, as to his knowing that it was wrong, or evil, are open to ambiguity; and confound the degree of intellectual light with the question of moral responsibility.

In consequence of this discussion questions were proposed to the judges, to which that great judge, Mr. Justice Maule, returned answers, and it is interesting to observe how his powerful intellect treated the subject.

"The question put to the judges is, in effect, what is the law respecting alleged crime when at the time of the commission of it, the accused knew he was acting contrary to the law, but did the act with a view, under the influence of some insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some supposed public benefit. There is no law that I am aware of that makes persons, in the state described in the question, not responsible for their criminal acts. To render a person irresponsible for crime, on account of unsoundness of mind, the unsoundness should be such as to render him *incapable of knowing right from*

*wrong.* The terms used in the question are not equivalent to a description of this kind and degree of unsoundness of mind. If the state described in the question be one which involves, or is necessarily connected with such an unsoundness, this is not a matter of law, but of physiology, and not of that obvious kind as to be inferred without proof. The manner of submitting the question of fact to the jury, is a matter for the discretion of the judge, to be guided by a consideration of all the circumstances. In stating what kind and degree of insanity would amount to a defence, he should state it conformably to the definition here given."

It will be observed that the answers of Mr. Justice Maule used the general and equivocal phrase "right or wrong," and the Lord Chief Justice Tindal thus remarked upon and explained it. "That mode of putting the question is not so accurate when put generally as when put with reference to the prisoner's knowledge of right and wrong in respect to the very act with which he is charged. If the question were put as to the knowledge of the accused solely with reference to the law of the land, it might tend to confound the jury, by inducing them to believe that an actual knowledge of the law of the land is essential to lead to the conviction. If the accused was conscious that the act was one which he ought not to do, and if that act was at the time contrary to the law of the land, he is punishable, and the usual course therefore has been to leave the question to the jury, whether the party had a sufficient degree of reason to know that he was doing an act that was wrong; and that course we consider is correct. As to delusion, the question must turn upon the nature of the delusion. If the prisoner's delusion was that the deceased had inflicted an injury upon him, and he killed him in revenge, that would be murder."

One of the questions put by the Lords was, "Whether a medical man, conversant with the disease of insanity, who never saw the prisoner previous to the trial, but who was present during the trial, could be asked his opinion as to the state of the prisoner's mind at the time of the commission of the alleged crime, or his opinion whether the prisoner was conscious, at the time of doing the acts, that he was contrary to law, or whether he was labouring under any, and what, delusion at the time?" In his answer Mr. Justice Maule said, "The principle of such a question is open to this objection, that as the opinion of the witness is founded on those conclusions of

fact which he draws from the evidence, and as it does not appear what those conclusions are, it may be that the evidence he gives is on such an assumption of facts as makes it irrelevant to the inquiry. But evidence most clearly open to this objection, and on the admission of which the event of the trial most probably turned, was received in Macnaghten's case, and in others, and the practice of receiving such evidence ought, in criminal cases, to be held to warrant its reception, notwithstanding the objection in principle to which it may be open."

This admits that the evidence is vicious in its character. And, be it observed, such evidence had never been received before Oxford's case; at least in no other reported case. And its reception was opposed to the previous practice of a century, ever since Ferrers's case.

Lord Chief Justice Tindal, however, answered in a similar way to the question. "That the medical man cannot in strictness, under the circumstances supposed, be asked his opinion in the terms stated, because each of those questions involves the determination of the truth of the facts deposed to, which it is for the jury to decide; and the questions are not mere questions upon a matter of science, in which case such evidence is admissible. But when the facts are admitted and not disputed, and the question is substantially one of science only, it may be convenient to allow the question to be put in that general form, though the same cannot be insisted on as a matter of right." Now, as in all these cases, the facts are generally admitted, or the counsel for the prosecution are not in a position to dispute those which are alleged as to the previous history of the prisoner, or his family, and as in criminal cases every indulgence is allowed the accused, this opinion practically came to this, that in these cases the kind of question alluded to is admissible, although wrong in principle. Therefore it is plain the question practically hinges upon this practice, for, as already observed, practically, the cases turn on the medical evidence for the prisoner.

But it will be observed that the Lord Chief Justice said "the question is one of science only"—i.e. of medical science. That sort of evidence the highest authorities have rejected. And there is the root of the whole evil. To show this we have cited the ancient authorities. The moment we admit it is a mere question of science, that

vicious mode of viewing it virtually decides it, and perverts the decision.

If it were a real insanity, some medical men would have assuredly been consulted before the act, and their evidence would be fairly and properly receivable. But in cases of the class alluded to such evidence is not producible, for the very reason that the insanity is pretended. Therefore medical men are for the first time retained to speak as to the prisoner's insanity. Of course they receive fees for attending him, and more fees for consultations. Nor can it be doubted that the affection or the family pride of relatives will render these fees as large as their means will allow. They are like counsel, therefore, retained as advocates. They soon imbibe the spirit of advocates in the case, and these feelings, added to the natural impulses of humanity, combine to warp their judgment. Supposing it favourable, as it mostly is, they are summoned as witnesses at the trial, and under the practice as it exists, the accused has the weight of their great names, and the apparent authority of their testimony, when it is produced.

When it is produced. There is the most important part of the subject. To be produced it must be procured. And how is it procured? Practically by means of money. The evidence is usually that of medical men who have not known the prisoner before the act imputed; nay, often they have not seen him before the trial. At any rate, in cases of pretended insanity, it is obvious that the evidence must be that of medical men, who have not seen him until after the act, for it being pretended, of course there could not have been occasion for medical men to be consulted about him before the act. And this is one of the surest and safest tests of a simulated insanity, that it is set up for the first time after, or about the time of the committing the alleged crime. Therefore recourse is necessarily had to medical men, who have seen him only after the act committed, that is to say, the evidence is only required and offered just in those cases where its very production is almost *prima facie* ground for suspecting simulation of insanity. And hence the murderer is sure to be acquitted, however atrocious his crime, if his friends can secure the testimony of such witnesses.

But supposing they cannot, and of course they cannot unless they happen to have money. And here is the vice

of the system, that it practically operates most iniquitously, and enables criminals with money to escape.

Take the very next case which occurred after Macnaghten, a poor wretch named Higginson, who was tried before Mr. Justice Maule. He was indicted for the murder of his son, a child five years old, by burying him alive. When the witnesses for the prosecution were giving evidence as to whether or not the child might have been dead before he was buried, the wretched creature horrified the court by crying out, "I put him in alive!" This of itself was some proof of insanity, at least as good as what had been received in other cases. And a person who had known him from the time of their being at school together, deposed that he was of "very weak intellect." Two of the officers of the prison gave evidence in confirmation, so far as their own observation had extended. And the surgeon of the gaol, who was called by direction of the judge, stated that "the prisoner was of very weak intellect, but capable of knowing right from wrong." But the wretched criminal had, fortunately for justice, no counsel to make a powerful speech, and above all, no medical witnesses paid to impose their opinions upon the jury. The surgeon who was called was called in the interests of justice, and gave unbiassed evidence, and the judge upon that evidence told the jury that if they believed the prisoner at the time of committing the act knew right from wrong, he was responsible for his acts, although "he was of weak intellect." And the prisoner was convicted and executed. Unjustly, if Macnaghten had been justly excused. But the impression on the public mind was strong that he had *not*. And this no doubt had produced a reaction, but the reaction was temporary. The erroneous notions rooted in the public mind had become too deeply rooted to be soon eradicated, and were strengthened and rivetted by a growing aversion to capital punishment in general.

The main mischief has been, however, in the system of paid medical advocates as witnesses, and in the circulation by these medical men of works calculated (as Lord Campbell truly said) to mislead juries, and to diffuse false ideas about "homicidal propensities," and "irresistible impulses." The two evils have an eventual connection and combined operation. The books prepare the juries to receive the false evidence which the medical advocates are paid to give. The books operate as a kind of advertise-

ment, that the writers are prepared to act as medical advocates and witnesses in such cases. The course is clear when a man or woman with money, or with friends who have money, has committed a horrid murder; it is to retain two or three of these "mad doctors," as they are called, whose preconceived theories of homicidal propensity are known, and have been publicly put forth; they attend two or three consultations, they are summoned as witnesses, and are sure to do their utmost to uphold their own theory, even apart from the natural influence of feelings of advocacy, the more so as it tends to advance their peculiar branch of the profession. It is "in their vocation." And here is another view of the danger. As Lord Cottenham said, "We should view with the greatest jealousy any measure to facilitate the confinement of individuals on the ground of insanity, knowing the latitude of definition which medical men are apt to associate with the idea of insanity." And these "mad doctors," be it observed, have a direct interest in extending this "latitude of construction," and making out as many persons as possible to be lunatic. Indeed, to read some of these works it is hard to know who would be deemed sane according to their depositions. The public have lately had a remarkable instance of this on a commission *de lunatico*, in which a gentleman, who had been confined by medical men as lunatic, was proved and held by a jury to be quite capable of managing his own affairs. Indeed, the state of the law in this aspect of it, the facility for confining persons as insane, is almost as alarming as the other view of it, the facility of impunity to murder, and is indeed of far more general interest, for few commit homicide, but all (who have any money) are open to the "latitude of definition," which mad doctors—keepers of lunatic asylums—give to the notion of insanity. And this raises the very important question whether medical men should be allowed to keep such asylums, or at all events, whether they should be permitted to receive as patients persons as to whom they themselves have advised. Let it be observed that it requires only the certificates of two medical men to justify the confinement of any person for insanity. And it has happened for a husband to be unable to obtain redress for the forcible seizure of his wife, and confinement in an asylum against his will; probably to prevent her exercising some power of appointment in his favour. That even has actually occurred, and the writer



knows of other instances in which persons have been corruptly confined by their relatives as lunatic, in order to prevent their making alienations of property. In fact, while this country was agitated by ideas about the compulsory confinement of inmates in convents, it occurred to us that it would be more useful to direct attention to the compulsory confinement of persons in lunatic asylums. Horrible cases have occurred within the last few years, (one not long since,) of the sufferings they there endure; indeed, it is probably the most harrowing idea of agony of which the human mind can conceive, that of a sane person being confined as a lunatic! Nothing more likely to terminate in real lunacy, as probably it often has. And surely, there is something perilous to liberty in giving any two medical men the power of signing a certificate which may justify the sending any person to be confined in the asylum of one of them, at a very liberal rate of remuneration!

Medical men, keepers of these asylums, have of course the strongest disposition to enlarge, as Lord Cottenham expressed it, the definition of "insanity," and criminal trials afford them ample opportunity of doing so; their works meanwhile diffuse the most positive absurdities upon the subject.

A few years ago occurred a case remarkably illustrative of the result. One Mrs. Brough had savagely murdered her six children, and was tried for the murders. The defence (of course) was insanity; and as her friends were in good circumstances, Mr. Edwin James was retained for her defence; but what was far more important, Dr. Winslow, a medical man who had published works on insanity favourable to the theory intended to be set up, was also engaged in the case. The writer heard at the time that the fees he received for consultations, &c., were larger than those of Mr. James. Certainly his services were of infinitely greater value to the wretched criminal, whom, but for the medical testimony, not all Mr. James' eloquence would have saved. But there was another kind of advocacy far more powerful than that of the avowed advocate; it was the evidence of the medical advocate, coming forward apparently as a disinterested witness, really with all the spirit of the advocate, and something more, with all the anxiety to support a theory, with all the vanity of an author, with all the interests of a professional vocation at stake. Dr. Winslow, for instance, came for-



ward in the double character of writer on the subject, and as keeper of a lunatic asylum, claiming therefore all the credit due to science, to study, and to experience. His theory was homicidal impulse, irresistible inclination to homicide. There was not an atom of evidence to rest a case of insanity upon in the mind of any rational man, disinterested and unbiassed. The writer was present at the trial, and watched it carefully. The prisoner had never been deemed to be insane, never treated as insane, never watched or guarded, allowed to manage a household, and bring up her children just as other women. It came out, indeed, that some years before she had received a blow on the head, which has probably happened to all of us, but on that slight superstructure Dr. Winslow managed to erect the whole edifice of the defence. He said a blow on the head might cause disease in the brain, and that this might cause insanity, and that there was such a thing as homicidal impulse, and that having heard the evidence, and seen the prisoner, (never before the act,) he thought this was one of those cases. Mind, it was not proved that the wretched woman had ever done a single irrational act since she was of the age of reason. There was not, it will be seen, the least vestige of real foundation in fact for the defence. The forensic advocate, however, came to the aid of the medical, and urged with great force the absence of motive;—that is, the apparent absence of it; for here is again a fallacy as dangerous as the crude notion of insanity. It does not follow that because a motive is not proved therefore none is known, nor because it is not even known that therefore it does not exist. This case terribly illustrated that fallacy, as will be seen. For some reason the motive, known to exist, was not proved. It was suspected that for certain reasons the prosecution was not desired to succeed, and that the evidence was kept back for that reason. Be that as it may the evidence was kept back, and of course the prisoner's counsel made the most of the apparent absence of motive, and urged with impressive force the confirmation this gave to the theory of homicidal impulse. He said that for some inscrutable reason God permitted men and women sometimes to have these irresistible impulses to murder, and that it was shocking, but could not be helped.

Of course, the Judge, no less a Judge than Mr. Justice Erle, did his best to stem the current of all this absurdity,

and explained the subject in a masterly manner, quite in accordance with Catholic theology; pointing out that no doubt by the long indulgence of evil passions, of a sullen and revengeful disposition, the passions acquired such terrific force, that *then* probably an impulse to commit murder might become irresistible; but this, so far from doing away with moral responsibility, was only a proof of greater depravity and malignity. And in his way of putting questions to Dr. Winslow, he showed that he deemed his theory rank nonsense. In truth, it was scarcely intelligible. But it was sufficient to impose on a country jury. And of course, in a case of life and death, no judge likes to press a conviction. Again, the mischievous system succeeded, and, for a most horrid murder, complete impunity was secured. For murder it was, "most foul and most unnatural," as in a few months was placed beyond all doubt. There was an action brought by the husband for adultery with his wife; that action was referred to a learned judge now on the bench, and he awarded damages. And it was well known at the trial that there had been this adultery, that the woman found that her husband had discovered it, and was, as she feared, about to turn her out of doors; and then, in the fury of revenge, she committed this most horrible murder on her six children. And thus this foul murderess escaped with impunity, through the testimony of one of your medical advocates—your retailers of the mere theory of insanity—your preachers of the doctrine of homicidal mania!

Nor was this the last of such cases. Neither was it the worst. Beneath the lowest depths a lower still; and later cases have surpassed it in atrocity. We allude to the cases of the last Northern assizes, when more than one ruthless murderer escaped in a similar way upon the same testimony. We mention one as an instance, that of Atkinson, the wretch who murdered his sweetheart from jealousy, or rather revenge for her rejection of his wicked advances. If ever there was a case of cold blooded atrocity, that was one. The monster lured his victim to a lonely place, and then, in spite of her screams for mercy, savagely cut her throat. Unfortunately, the miscreant's friends had money enough to retain Dr. Winslow, and by the aid of his theory of insanity, they saved him from the gibbet which was his due.

— The evidence, at the utmost, amounted to no more than

the merest possibility of his being of weak intellect; but it rather went to show that he was a more than usually depraved and degraded creature. There was want of moral sense; the Doctor said he was a stupid, stolid, sullen wretch; which your murderer usually is. So was the wretch whom Lord Campbell sent to be hung a year or two ago, who hardly seemed to have any mental perceptions. So was the ruffian who was convicted in a similar case before Mr. Justice Willes last year, and would have been hung had his victim died. All murderers of the common kind, are of this class. Go to the Old Bailey and see their faces; or to the phrenologists, and see their skulls, often more like those of brute animals than men. Consult Lavater on physiognomy, and you will find that there is a "murderous cast of countenance," a dull, brutal, kind of expression, perfectly expressive of the character of a murderer. But this is only the index of the moral condition of the man. And if you are to let off all murderers who look like murderers, we may as well proclaim immunity to murder. It is a monstrous theory which allows men, whose fierce, sullen, and brutal dispositions, have debased them to a state of stolid and savage barbarism, to plead as an excuse for the horrible and bloody barbarities they perpetrate, that which is the very essence of their crime, that they should so long have indulged the baser instincts of their nature, as to have degraded it to the level of the more malignant of wild beasts. The absurdities in which the monstrous theory is involved, are glaring. You would punish the youth for his first offence, of passion or of malice; but if in consequence of repeated indulgences of his passions, he at last becomes like one bereft of reason, in his savage fury, or his sullen moody spirit of revenge, you acquit him!

But whether it is from the growing conviction in mens' minds that society is so responsible for the brutish state in which large masses of our population are formed, that jurymen cannot bring themselves to condemn as criminals, men and women whose moral degradation seems next door to insanity; or whether it is from some secret dislike of the doctrine of sin, or from some morbid sympathy with crime, whatever is the cause, the monstrous theories of the "mad doctors," as Lord Campbell calls them, are followed by juries, and the vilest murderers escape.

Dr. Winslow seems to have quite a large professional practice in this way. He is the medical advocate of criminals. He is in much the same position as Mr. Adolphus or Mr. Clarkson used to be at the criminal bar. He has a large practice in criminal business. He has his special retainers all over the country. To-day, it is Guildford, in the case of Mrs. Brough; to-morrow at York, in that of Atkinson.

He appears in crowded courts as the great authority upon insanity. And every appearance is a hit. Future murderers make a note of his name, eager to secure his services. Nor they alone. Persons desirous to shut up some obstinate relation, whose last will might spoil all; and children wishing to get rid of troublesome parents without the inconvenience of becoming murderers themselves (start not, the writer knows that such things have happened, and do happen);—all these listen with deepest interest and great delight to the Doctor's descriptions of insanity, and are edified by his charming latitude of definition (to use Lord Cottenham's polite expression) and they likewise make a note of his name and address, and propose to themselves to consult him, knowing that his "definition" may have sufficient "latitude" to include the case of the impracticable relative they wish to provide for. And so every "appearance" lays the basis for an extension of practice, and future consultations bring fresh patients to the asylums; or again, he may be wanted to give evidence to set aside a will, and prove that some person he never saw, was insane.\*

It is monstrous that such a system should be allowed;—that such men should be allowed to be heard at all in courts of justice, on a question in which they have the strongest personal pecuniary professional interest in giving their evidence a certain tone and tendency. It is the only instance in which such testimony is received; and a mistake has grown up in our system under which it has been admitted. All their interests are in one direction to enlarge the definition of insanity, and they have an immediate direct pecuniary interest in maintaining their theory. For, granted that they have not received any fees in the

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\* See the Case of *Roberts v. Kerslake*, 1 Kay and Johnson's Reports, 751, and afterwards before the Lords Justices.

particular case, yet their future interests depend upon the degree to which their testimony produces its effects on judge and jury.

The acquittal of the miscreant Atkinson upon this kind of testimony seemed quite to have shocked the profession. And the eminent physician Dr. Mayo came forward to express what no doubt is the opinion of the most respectable portion of the medical profession about it, what has long been the opinion of the legal profession. He quite upheld the old legal doctrine as to the criminal responsibility of alleged lunatics, holding that if a man had sense enough to take offence, to meditate revenge, to plan it, and to perpetrate it, he having been all his life allowed to act for himself and take care of his own affairs, he had sense enough to be a criminal and to suffer for his crime. This surely is the sensible view, the only sensible view of the question, and no one ventures to dispute it but Dr. Winslow. Of course *he* disputed it. It was destroying the most lucrative branch of his professional practice. It was touching hence his vocation. He came forward to defend it, and he did so under most favourable auspices. He was not only a relative of a late Master in Lunacy, but he had access to the *Times*. It is not always this can be obtained by those who have views to defend or a cause to support. As we desire to be fair, we will give the doctor's defence, premising that he had seen the prisoner only after his committal for trial, and had given evidence as to his insanity founded on his examination of him, and his low state of intellect, &c. This Dr. Mayo had remonstrated against as wholly insufficient to justify the evidence, and asked with great force whether it would have justified a commission of Lunacy. This was the true test; and though Dr. Winslow professed to meet it in argument, he did not in fact; for in point of fact, no one had thought of shutting the man up as a lunatic; and he was all his life at large. However let us hear the doctor. He thus writes to the *Times*:

“Let me ask Dr. Mayo whether the insane can be influenced (under circumstances similar to those in which Atkinson was placed) by rational motives,—I mean motives addressed to their reason and not to their instinct.

“Is not the ‘unquestionable lunatic’ incapable of appreciating like a sane and sound-minded man any motives addressed to his

reasoning faculties? His reason is disordered. It has, to use the eloquent words of Lord Erskine, 'descended from its throne,' and the instinctive faculties, which we have in common with the animal creation, have taken its place.

"The motives—the reasonable motives—that are known to influence the 'unquestionable lunatic' are in the main supplied by those which govern and direct him while under surveillance and treatment. They do not originate in the mind of the lunatic as one of the results of a process of healthy and sound ratiocination. In other words, the motives of the lunatic are of an objective, and not of a subjective character; he looks to others (while under legal restraint) to supply him with rational and reasonable motives for conduct.

"Dr. Mayo asserts that 'unquestionable lunatics and madmen' can be 'restrained by their fears.' This is an admitted axiom. But the fear of the lunatic and madman is not a reasonable and rational, but an instinctive fear, such as animals exhibit when influenced by the dread of punishment.

"Would it not be perfectly monstrous to consider the 'unquestionable lunatic' as responsible as a man in full possession of his reason, merely because he is when under conditions of moral restraint and control 'influenced by motives,' and 'restrained by fear?'"

"Dr. Mayo says, 'the argument of Dr. Forbes Winslow would not, I imagine, have satisfied the Commissioners in Lunacy that vice, cruelty, intemperate passionateness, defective memory, feeble moral qualities, and limited intellect, inadequate notions of the nature of the Deity, even accompanied by a goitre, would warrant their depriving Atkinson of his liberty.'

"During the several anxious and prolonged consultations I had with the three medical gentlemen at York (previously to the trial) respecting the alleged insanity of James Atkinson, the question suggested by Dr. Mayo was, in fact, put by myself on more than one occasion to Dr. C. Williams and Messrs. Kitchen and North. 'Is this a case,' I asked, 'supposing we had known James Atkinson's antecedents but were ignorant of the fact that he had committed murder, in which we could conscientiously have certified to his mental unsoundness?'"

"The answer to that question was an emphatic 'Yes.' We arrived at this conclusion, not because Atkinson had exhibited in the course of his life 'a disposition to vice,' not on account of his alleged acts of cruelty,' 'his intemperate passionateness,' 'his defective memory,' 'feeble moral qualities,' 'limited intellect, inadequate notion of the Deity,' as Dr. Mayo assumes, but principally on account of the prisoner's obvious and palpable condition of imbecile mind at the time of our interview.

"During the lengthened examination that I instituted of the prisoner's state, in the presence of the medical gentlemen previously



mentioned, I discovered that he had not the intelligence and knowledge of a child of eight years of age.

"He was utterly incapable of understanding the most simple question ; his powers of apprehension were of the lowest order ; the memory, faculty of judgment and comparison were little, if at all, developed.

"Apart from these symptoms of stunted mind and mental imbecility, I found the prisoner entirely unconscious of the awful position in which he stood. He exhibited no sane apprehension of the consequences of his crime, neither did he manifest in my presence the slightest fear as to the result of his trial.

"I repeatedly endeavoured to awaken in his mind some degree of rational consciousness as to the fearful crime he had committed, and tried again and again to induce him to realize the sad results to his own life, were he found guilty of the offence of which he was charged, and for the commission of which he was soon to be tried. All my efforts to arouse the prisoner to a sane state of consciousness were ineffectual. It appeared as if I were addressing myself to a child, or to one of the brute creation.

"It is true, as Dr. Mayo suggests, that mere 'vice,' 'defective memory,' 'limited intellect,' &c., when viewed by themselves, are not safe *data* upon which to found (exclusively) a theory of insanity and moral irresponsibility ; but are not these states of mind the elements that enter into the constitution of that condition of mental disorder known by the term 'imbecility ?'

"This type of insanity is not a metaphysical abstraction. It is a condition of mind recognized by certain negations ; in other words, by the absence of those manifestations of intellect generally considered to represent what we term the average standard of mental health.

"'Defective memory,' 'limited intellect' may exist irrespectively of insanity and imbecility, but I would ask Dr. Mayo whether the latter state can be present without such symptoms ; in other words, whether they are not essential ingredients in all such cases.

"An imbecile has little or no memory, is dull of apprehension, is incapable of grasping the most simple questions, has no power of comparison, exhibits no interest, or interest of a most feeble character, in surrounding circumstances, and has no rational and sane appreciation of his social duties or position.

"If these symptoms were considered individually, they would be unsafe and dangerous evidences upon which to form a conclusion as to the state of any mind ; but when viewed in the aggregate they constitute valid and satisfactory *data* to guide the medical jurist to a right result."

Dr. Mayo replied ; and we give the substance of his reply, which will be found to embody the substance of all we have said on the subject.



“Without entering into the entire question whether the result of this trial was or was not a just one, I used this evidence, as it related to a class of cases in which I observe that ‘the immediate criminal act is resolvable into normal (i.e., sane) principles of action, while the context of character affords some grounds for a suspicion of mental unsoundness.’ My exclusive object in that letter was to impress the public with the dangerous consequences incident to these cases as at present dealt with. To this letter, thus far referring to Dr. Forbes Winslow, he has thought proper to return an answer through the *Times* defensive of himself, and inculcating me. On the latter head I am contented to abide by the decision of the public. On the former point—namely, whether this particular case was brought to a just termination through the evidence of Dr. Forbes Winslow, I will only observe that the analysis of the trial given by the *Examiner* of the 25th ultimo exhausts this topic.

“My purpose, Sir, in the present letter, is a different one. I wish to offer a few practical suggestions on the general question discussed in my former one. Indeed, whether I am correct or not in objecting to the present theory of moral responsibility as influencing juries and sometimes judges in this class of cases—and my arguments have not been answered—I may at least assert, that the practical analysis of such cases is often a difficult one. But if this be admitted, I may fairly claim that the investigation should not be encumbered with greater difficulties than are implied in the nature of the subject.”

“But there are other securities required in these cases for the attainment of truth. The profession to which I have the honour to belong ought as much as possible to be defended against the tendency of men to become advocates, and not witnesses, in cases in which they are interested. Whatever other precautions are taken the judge ought to be directed or empowered himself to call in a medical witness, who shall act equally for the prisoner and the crown—in a word for truth.

“One word more. There are wise dicta of the law on the subject of evidence in such cases as I am alluding to. One of them is, that the presumed irresponsible murderer ‘did not know the nature of the act he was doing, or knowing it, did not know he was doing what was wrong.’ Here is a very simple rule, by which it is the duty of the jury to abide, and not to arrogate to themselves that prerogative of mercy, which belongs to the Crown, assisted by the judges who may have tried the case. At present ‘the quality of mercy is strained’ by the interpretation which juries take it upon themselves to give, travelling beyond their proper function.”

Thus we see there is a complete *consensus* of the two professions as to the true view to be taken of such cases—the principles involved and the tests to be applied. The

mischief has arisen, as Lord Campbell pointed out, from the loose way in which Oxford's case and Macnaghten's case were dealt with, and the encouragement they afforded to a particular set of practitioners, the "mad doctors" as he called them, to impose their lunatic asylum theory on the public, and mislead ignorant juries to give verdicts in accordance with it. The mischief can only be eradicated by judges setting their faces sternly against this kind of nonsense, and telling juries plainly to regard with the greatest doubt and suspicion a case of lunacy set up for the first time after the commission of a capital offence, and utterly to disregard the evidence of mad doctors who have not seen the criminal until after the offence was committed.

The root of the whole evil is the materialist notion that the question is a medical one. It is not. It is a moral question. It is a question of moral responsibility, and it is to be decided on moral probability. Where you can even find a possible physical cause of lunacy—as a blow on the head—even then if you find that in fact that lunacy does not exist, what matters the possible cause? And you do know that it does not exist if the man acts in other matters with as much sense as other people.

The cure of insanity arising from physical causes—as delirium tremens from drinking, or a depression of the skull, &c., or raving fever—is no doubt a matter of medical skill. But not the detection of insanity. That, in the language of the old lawyers, is "a question on all the evidence" of the case. It is a moral question, not a medical question. It is a question for practical good sense: on the moral probabilities of the case.

The notion that any one medical man can or not find out a person's sanity from inspection or examination, is one of the most flagrant impositions ever attempted. Mental incapacity is not a bodily infirmity to be detected by mere conversation; if it is so, it is so gross that no examination at all is necessary, and if it is not so, then we question if sanity is surely a practical, not a scientific question. It depends upon the general course and conduct of a man, and the impression he produces on others in dealing with him. If he is able to and does treat with other persons on his own affairs, and has sense enough for the concerns of life, how can any one pretend to say, from

a first or second visit, whether he is sane? even, indeed, if it must not be taken for practical purposes that he is so? To depart from this plain practical test is surely to confound power of intellect with sanity. And this is the test applied in commissions de lunatico inquirendo, in which the juries are asked whether the party was of sound mind, capable of taking care of his own affairs. So on an issue as to the sanity of a testator, the question is, whether he was of sound disposing mind, i.e., whether he knew the nature and effect of the disposition he purported to make. According to analogy, surely it would be sufficient that the criminal should be shown to have been of sound mind, i.e., to have had a mind to kill, to know what he was about, and to know that it was what he ought not to do. And that he is able to and allowed to live at large, and to manage his own affairs, and treated as sensible and sane, is surely conclusive proof that he is so, at all events not to be got rid of by the opinion of mad doctors, who saw him for the first time yesterday.

As we said before, the most serious aspect of the case is the facility with which, on the same fallacious principle, persons are allowed to be shut up as lunatics. No one should be allowed to be so dealt with on the certificate of a couple of doctors. If ever a jury is necessary it is in such a case. That a couple of mercenary rascals may be called in, who after looking at you, and asking you a few questions, have power to shut you up in an asylum amongst lunatics, and this in a country which boasts of its liberty, is one of the most monstrous things that ever was heard of in a civilized country. After this, is it reasonable to hear men talk of Papal misgovernment, and rave for inspection of convents: and the possible detention of nuns against their will? We do not believe that in all the civilized world such a monstrous system as that of our private lunatic asylums is to be found.

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ART. V.—*Anne Sherwood, or the Social Institutions of England.* By Berkeley Aiken. In three volumes, small octavo. London: Richard Bentley.

**T**HIS novel will be a popular book. It will be read with interest, for it is a class-book. It has already made some stir among the “upper ten thousand.” It espouses one side of a question, is therefore warmly, if not wisely, written. The printer’s devil, however, has played some mad pranks with the grammar of our authoress, for we cannot for a moment suppose that she has forgotten her Murray. The printer is the scapegoat of authors; if he is ever to be produced on canvass, it will require the power and skill of a Holman Hunt, to show the bleeding nostril, and eye of suffering, and feet rooted to the ground, to bear the burden cast on his unoffending back. But not to notice lesser blemishes, these volumes exhibit the graver faults of prejudice and exaggeration. It is a pity to paint the devil too black. The pride of the eyes, and the lust for gold which it begets, is the Goliath, the giant of Gath, “with helmet of brass upon his head, and greaves of brass upon his legs, and a target of brass between his shoulders,” whom this David of ours, with five smooth stones out of the brook, and a sling, is desirous of cutting off from among the Philistines, so that the carcass may be this day given “unto the fowls of the air, and to the wild beasts of the earth, that all the earth may know there is a God in Israel.”

The professed aim of the book we are bringing under the notice of our readers, is to show up the cruelty of the rich towards the poor; towards that most suffering section of the poor, the lady-governess class; to expose that most refined of cruelties, pride of manner, which women can adopt with such great facility, when they choose, especially towards their fellow-women of an inferior walk in life, or towards those, their equals in birth and education, who unfortunately happen, by one of the many mischances of civilized society, or by reckless speculation, not to use a harsher term, on the part of their natural protectors, to be now dependant on them for their daily bread. It is an attack upon our social institutions, but who can say they are

unassailable? unlike the British constitution and the Protestant religion, those at least may be reformed and amended. It attempts to unmask London life in the upper circles of society, to unveil the cold bosom of fine ladyism, and to lay bare the neglect and cruelty which women inflict on their fellow-women, on the teachers of their children, on the underpaid governess in the overstocked house, on those foster-mothers, who give suck to the brains of the rising generation. White slaves, as our authoress not inaptly terms them, in the not inappropriate dedication of her work to Mrs. Beecher Stowe, the champion of the black slave. In these days of great publicity no social grievance can be long gagged. It is right and wholesome that a wrong should make itself heard. Prudence and justice alike demand it. Therefore we welcome this publication, and are glad that it courts and challenges public attention by calling the self-satisfied society in which we live, to account for the criminal negligence, if not oppressive cruelty, displayed towards a large class of women, defenceless in the world, and exposed to temptations innumerable. We disbelieve one half of its statements, yet if the other half be true, there is enough left to appal the stoutest hearted man amongst us.

One day last summer, if we remember rightly, a strange tale was told in the daily papers about a young woman suddenly shipped off to the French coast, where her relations resided, by a lady—we cannot bring ourselves to call her woman—in whose house she was employed as a governess, because she had the misfortune to fall ill at an awkward time, a time when gaieties most abound. Illness is not an agreeable guest in a London house in the height of the season. She was turned out of doors, conveyed on board ship, ticketed like a bale of goods; her passage money was generously paid, and the captain, poor fellow, entreated to keep an eye upon her. Alone and friendless, and young and ill, sad in heart and weak in body, she was turned adrift, and left to die on her voyage, or on her landing, it mattered little which, so that she was out of sight and out of the way of her pleasure-hunting mistress. She did die. The fever was fanned by the fatigue of the journey to a consuming flame, and the life, which her selfish employer would now gladly recall, burnt itself out. Her relatives, hurt and indignant at such an outrage on common decency, not to speak of humanity, made an

effort to obtain redress, threatened proceedings at law, but the matter dropped, or was passed over, or was hushed up, at least the public heard no more about it. The public was indignant for a day, and spoke out loudly. It costs so little to speak, in fact a burst of virtuous indignation is rather a pleasure than otherwise. It clears the moral atmosphere as a storm does the material. It relieves the mind; it dismisses from the memory the accumulated wrongs we have witnessed inflicted on the innocent. By the utterance of our high displeasure we grow self-satisfied, and think we have done our duty. The public has other business on hand; it must move on. In the meanwhile the young lady is dead, buried, and forgotten; forgotten even by the ungrateful worm which had feasted on her body; forgotten by the mistress, who had made use of her mind to the uttermost, while her health lasted, but when it began to flag or fail, flung her aside, as an useless encumbrance, to die and to rot. The warning of her untimely end has fallen on heedless ears. The like suffering goes on, and the like selfishness which begets it. Reality is stranger than romance. If we could rip up the breast and discern the workings of the human heart, we should discover strange things, which the poet and the novelist have failed to catch even in the light of their glowing imaginations. But we have not now to do with the minds of men, but with their social institutions and the wrongs of a class. “*Il faut ôter des masques des choses aussi bien que des personnes,*” says Montaigne, the brilliant essayist, who laid bare and scourged the foibles and crimes of his own time and country. What is the cheat to be unmasked in our day; what is the whited sepulchre to be laid bare in its hideous nakedness; what is this progress we hear so much of, as the boast of the age we live in as the result of three centuries of Protestant enlightenment; what is the worth of this wealth, which wears the garb of respectability, but has not the covering of charity? By the consideration of such questions we are brought face to face with the great social problems of the day, selfish wealth ever accumulating in fewer hands, and increasing poverty in an ever widening circle. The poor are, day by day, growing poorer, the rich richer. Poverty lies like a chained and charmed lion, crouching at the foot of lordly wealth. Did it but know how gossamer-like are the fetters which bind it down so tightly now, that they



eat through the flesh to the bone ; did it but know that it needs but to rise in its wrath to rend its bonds into shreds, and to pitch its oppressor under foot, how terrible would the day of retribution be ! for religion imposes on either hostile host but little restraint ; with the one we fear it is but too often an empty conventionality, while by the other it is regarded only as a form and sanction, which step in at the solemn periods of birth and marriage and death, but are unseen or shunned on other occasions, and too frequently now, alas, owing to the march of modern enlightenment, dispensed with even on these. But fortunately for us, we have not now to deal with this larger question, for the aim of the book before us is limited to the dissection of one portion of the poverty-stricken world. If our authoress has succeeded in bringing home to women of influence and power the knowledge of the illtreatment and temptation to which this class of well-educated and often delicately nurtured women is exposed in the warfare of life, she will have done good service to society. It is a difficult work to keep body and soul together. Few, we hope, will be found in England, now-a-days, to echo the words of the French woman in reply to an objection thus urged upon her, "*Il faut vivre, Madame ; mais Monsieur, je n'en vois pas la nécessité.*" The disregard of the wealthy to the crying needs of the age they live in, is not wrong only, but shortsighted. It is a political blunder as well as a moral delinquency. Public crimes, like straws on a river, show which way the tide sets in. Society is startled and spocked, from time to time, by the revelation of some crime more hideous than usual, such as the murder of the Duchesse de Praslin, in Paris, just before the downfall of the wily and selfish monarch who lately sat on the throne of France, and such as that crime, in the purlieus of the Haymarket in another walk of life, which has recently so much roused public attention amongst ourselves, withdrawing, as it did, the veil which so lightly covers the great plague-spot of social life. The social evil is beyond the reach of the policeman's staff. The magistrate is baffled, and the minister of the state religion is at a loss how to carry on a cure to a successful issue. Let women step in to the rescue. They have a duty to perform. Here is scope for their energy and play for their charity. Even if they be too cold or too cowardly to follow the Good Shepherd in pursuit of the



sheep that has gone astray, yet let them have a care how they, by cruelty, injustice, or neglect to their poor dependant fellow-women, add but even one to

“Those eighty thousand faces with one smile  
Beneath the gas lamps.”

But we must press on and give an outline of the story, which we hope may induce our readers to find out for themselves, the many striking and life-like scenes with which the book abounds. The story opens and ends with a death, each artistically removed from the actual stage and scene of interest, in obedience to the Horatian rule:—

“Multaque tolles  
Ex oculis, quæ mox narret facundia præsens,  
Nec pueros coram populo Medea trucidet  
Aut humana palam coquet exta nefarius Atreus,  
Aut in avem Progne vertatur, Cadmus in anguem.”

By the death of their father, a clergyman of literary repute, two young women are thrown friendless and homeless upon the world. They try their fortunes in London. They try, as Wordsworth, the poet of reality, says:

“To live by hope  
And breathe the sweet airs of futurity.”

After many hair-breadth escapes from starvation, after many rebuffs from institutions, which governesses most resort to in hope, and turn away from, so often in disappointment, and after a thorough initiation in the mysteries of pawnbroking, they make a fair start in the business of life.

One sister, a milk-and-water miss, whose religion chiefly consists in quoting texts freely from Holy Writ, marries a sentimental young curate of low Church views, with a torn cuff to his coat, whom she met in the first instance, in a pawnbroker's shop. Cupid is decidedly a whimsical little god, with a large dash of fun in his composition, or else he would not have selected so unromantic a meeting place for such sentimental lovers. They marry and live ever after in a perpetual honey or rather “treacle-moon,” where we shall leave them, much to their own satisfaction, and to our very great delight. Anne Sherwood, the elder sister, was made of far sterner stuff. Her character is drawn with great power and nicety of

discrimination. In her heart, pride and love struggle for predominance, and both succumb at last, or rather run out and unite in revenge. The desire for revenge possesses her body and soul. Revenge on the man whom she loved with all the fire of her untamed nature, and with all the abidingness of first love. Revenge for an insufferable insult, inflicted on her heart, when she lay in his arms, listening to what she supposed was an honourable declaration of love, and drinking in the sweet music of his voice ; and that voice of first love, as is usual in natures like hers, was ever after sounding in her ears, and beating like the ceaseless wave on the stony shore, for entrance into her closed heart.

“It is so difficult,” says our authoress, “to forget old loves and old friendships, so much more difficult, if they have proved as the apples of Sodom, beautiful without, but within all ashes.” Can it be true, indeed, that love, to be remembered, must be lost, and that friendship is forgotten, unless it be broken? If it be so, it were better we rose up in our might and flung both love and friendship to the winds, to be scattered like dead leaves in autumn. We are no romantic believers in love at the best, but still our authoress has given vent to so many absurdities, that we may reasonably decline to take her theories for truths. She is like many gifted persons, prone to exaggeration. For instance, if we are to give credit to her statements, all mothers are weakminded, and all children overbearing ; all those through whose veins gentle or aristocratic blood courses are physically and mentally weak. Every lady of title is either ostentatiously vulgar or affectedly luxurious. In her eyes, the saloons of the great are all gilded, and the couches of velvet are so enervating, that their occupants have neither the pith nor marrow of manhood, nor the sweet touches of womanly nature. She even goes so far as to make her young ladies square like pugilists, and plant, on their gentle governesses, blows which would do credit to the professors of the ring. This is barbing her shaft with a vengeance. Take another instance : is it not the height of improbability for a woman of sense and knowledge of the world, like Anne Sherwood, to return the foolish reply she is here made to do, to a very proper question thus put by her younger sister, “Nonsense Anne, but you must tell me whether you would accept the Doctor? Not if each particular hair of his head

were a huge diamond, and he showered them all on me like the windfall Danae received from the father of the gods." Oh Annie, Annie, this is too rich! It is romance, not reality. What, an ambitious woman, a woman in want, a proud woman, writhing beneath the iron hand of cruel fortune, a woman born to

"Bear the whips and scorns of time,  
The oppressor's wrong, the proud man's contumely,  
The pangs of despised love \* \* \*  
The insolence of office, and the spurns  
That patient merit of the unworthy takes"—

refuse a rich and efficacious matrimonial remedy? What, decline the doctor, a man of repute, brown wig and brougham, backed up by an establishment with servants of both sexes? Reject the gilded pill, refuse his hand merely because she cannot love! What an old world notion. Love in London is out of date. It belongs to the days of chivalry. It was buried with the "dark ages." It sorts better in with "Popish superstition" than with Protestant enlightenment. We live in too go-a-head a world to lose time and money by falling in love. Love is a tyrant; it absorbs all our thoughts, if, like the wizard of old, it once lay upon us its fatal spell. It holds our hearts, if we have such old-fashioned commodities, too closely in its cruel clasp for escape.

We have forsworn now-a-days, not despotism only, but all subjection. We own no masters in our most selfish freedom; hence love is scouted, more by women even than by men, from the calculations of society. It may be a country, it is not a town, weakness. It may, at least, by a stretch of our imagination, we can just conceive it possible that it may be met with in country lanes, on rich sunset evenings, when the tall shadows of the trees lie like hopes at rest, in their stillness, on the unshaken grass; there perchance, love, first love, the only love worth naming, may be found sending the quick blood to the heart of the young, and blushes and beatings to the gentle bosom of the fair tender-eyed girl still open to the voice of love. But it is a moment's weakness, a day's sorrow, a rustic habit soon forgotten, chased away by the garish splendour or squalid misery of London life. We are naturally credulous. The organ of wonder is unduly developed in our pericranium. We are prone to romance,

and have a weakness for poetry ; but believe that love “rules the court, the camp, the grove,” we simply cannot. We did believe in the great sea serpent with its long trail of light on the top of the agitated waters of the vast Atlantic, the delight of seamen, the wonder of landlubbers, but we do not believe in the light of love on the smooth surface of society, and if not on the surface, it is to be found nowhere, for London life is essentially superficial life.

With a regret we are afraid to say how deep we beheld Niebuhr, more ruthless than Nero, and as insensible to our pain as the latter was to the burning of Rome, invade the time-honoured sanctuary of history, and more savage than Goth or Vandal, trample the life out of the fables of Romulus and Remus, and the tender-hearted she-wolf, which so delighted the credulous days of our youth. With hearty zeal he soon made clean work of the romance of history. It fortunately does not require the nervous hand of a Niebuhr to pluck out by the roots the romance of love. It is already an exploded notion, an idea too fantastic and high-flown for the common work-day world we live in. That woman has a genius for invention we readily grant. When she alleges a hundred and one reasons for accepting or rejecting a lover, we listen with complacence. Our beard, with its fashionable developements, lends a mock gravity to our countenance, and conceals the smile of incredulity which curls our upper lip. We dare not contradict, but we cannot believe that a woman, in the London world, is so influenced by what she calls a heart, as to decline a splendid match with a man of character, because, forsooth, she cannot love. We would almost as soon believe—fair readers do not laugh—we would almost as soon believe she would take for love’s sake only poverty as her bosom-guest. We agree with a poet we have heard quoted, or have seen somewhere, when he says,

“ The loves and the graces  
In sweet women’s faces  
Are but a poet’s idle dream.  
Love’s truest nurses  
Are long heavy purses,  
Pearls from the ocean, gold from the stream.”

We regret our keen-witted authoress has been so far carried away by her feelings as to allow Anne Sherwood

to reject so handsome an offer made by so charming a man as the old doctor, and has thus tinged with romance a tale of sad and sober reality. We console ourselves, however, with the reflection that it is too transparent an absurdity to provoke imitation among the class intended to be benefitted by these volumes.

Annie, we must confess, falls in love at last, but the man she loves, of course quite by accident, wears a coronet, and by another fortunate concurrence of circumstances, has broad acres at his back; nevertheless, though guilty of noble blood, he was a proper man, had a fine face shaded by raven locks. But did that pale woman who loved him, not know that the raven has a wing? his face, moreover, was lit by lustrous speaking eyes, most fatal of gifts, more fatal than woman's tears, because more true. "It was a countenance," so Annie described the face of her lover, Lord Claude Douglas, which we may well believe she had by heart, "it was at once a countenance of power and gentleness, proud yet tender, spirited yet yielding."

That love stood near, who can wonder, and love had flowers as of old, the fair Forget-me-not, love's first prayer, and the sweet-scented and star-shaped Heliotrope, breathing the very fragrance of early love, and telling of life-long devotion, of devotion unheeded and unreturned. As Annie laid in her bosom this sweet little flower of promise, plucked by hands that were so dear to her, she might have said with Alinda in the Pilgrim,

"I am not proud nor full of wine,  
This little flower will make me fine,  
Cruel in heart for I shall cry  
If I see a sparrow die.  
I am not watchful to do ill,  
Nor glorious to pursue it still,  
Nor pitiless to those that weep;  
Such as are bid them go sleep.  
Do, do, do, and see if they can."

Flowers, those sweet relics of Eden, seem to have suffered less by the fall than anything else that inhabits or adorns the earth; hence it is, we suppose, that they are ever, with the true-hearted and tender, love's earliest gifts, the hope at once and the promise of the unrealized future. Hopes how vain, and promises never to be fulfilled. Poor foolish Annie, her's was not the ruthless hand which thrust

those first gifts of love into the burning flame, for she loved, and they spoke to her of love, and love scatters not what it treasures. But they were scattered and flung into the fire,—most ungenerous cruelty,—by Lady Adelaide, Annie's arch-enemy, and future successful rival. Annie is kneeling down now, making her first act of love, her first worship of that idol, which is more treacherous and tyrannical than any ever set up by the heart of man, kneeling to gather up those scattered remnants and treasured tokens; the whitened ashes are carefully placed in a sheet of paper, and stowed away as keepsakes in her old desk, her treasure-house of love. Who amongst us, even in these whirling railroad days, has not an old and odd corner in his memory, where such treasures of his youth, ashes even though they be, do not lie hidden so deep and so dear, that the old besom of time sweep it ever so clean, cannot reach, and which, even if we could, we would not remove?

The love story is good, it is true to nature, and goes home to the heart. Its early beginnings are timid and shy. True love is never loud, and in its commencement never outspoken. It lies, like an incipient fever, in the flash of the eye, and speaks in the tremulous motions of the mouth. Then comes sickness, the separator, the keen and slow examiner of hurried feelings and hidden thoughts. Absence, the food of love, and sympathy, its very drink, do their appointed work. The lady fair stands, as we should expect, before the lover's prison-house; the world's tyranny, more than stony and stolid walls, bars out hands and eyes, that would soothe and soften sickness. The sick man leaps in his madness to the window, of course, to catch a sight of her passing shadow, to be his meditation by day and his dream by night. Health returns to the pale sufferer, then comes the meeting again between the long-parted but unavowed lovers, a meeting so often rehearsed and so long meditated on in sleepless nights; then comes the issue, fatal or fond, as the case may be, but always so different from what the imagination delighted to picture it beforehand. But the result of this long-hoped for meeting was fatal to poor Annie, fatal to her happiness for life, and fatal to the honour of her worthless, mean-spirited lover. Whip us the man round the market-place who would break a true woman's heart, if such there be, who could cajole and deceive the priceless

treasure of her young affections, and like a traitor and a coward, leave her hopeless and helpless in her woman's weakness. Great was Annie's disappointment indeed, not because a lover, who had a fortune to give with his hand, and a coronet to place on her brow, had proved faithless; but because the man, whom she had set her heart on, had shown that he had neither manhood nor mercy in his nature, had shown that in his breast true love had no place and honour no hold. Stung she was to the quick of her sensitive nature, because he whom she had set up as an idol of love, and whom she regarded as a pattern of honour, had fallen so low, and forfeited her esteem for ever. But she loved him still, in spite of his delinquencies, and to punish him for his treacherous cowardice, resolves on a marriage of revenge, and with wonderful nerve carries out her resolve. Shall we not after this be constrained to own with Don Jamie, in the Spanish Curate, that

“To work a fell revenge a man's a fool,  
If not instructed in a woman's school?”

Thus a new motive to our modern marriages is brought to light, a motive not so uncommon as we should be led at first sight to imagine. Revenge and jealousy, and wounded vanity, like unbitted and unbroken steeds, will lead the human heart a powerless charioteer over many a precipice, and issue in strange and unlooked for results.

There is a fine scene of jealousy described in the volume before us, which will well repay perusal. It is one in which Annie meets, at a critical juncture, her first lover, Lord Claude. Anne Sherwood, or rather Mrs. Annesley, the haughty and cold and yet fascinating widow;—for we have omitted to mention that the heroine had contracted a marriage, which our strong-minded authoress conveniently nipped in the bud, by killing the aged bridegroom with a fit of joy, or of apoplexy, at the wedding breakfast;—Annie then, as we shall continue to call her, had one night, in a fit of jealous love, sallied forth from her saloons crowded with the gay and the gifted, for she was now a brilliant and courted authoress, to gaze at the house of the only man whom she had ever loved, loved and left. What a strange sight must she not behold on that fatal night! what a tragic scene must she not witness! He, whom she so loved, is about to elope with the wife of



another man. She watches before the door, disguised in the rags of a beggar. Love, the terrible tyrant, has brought down the haughty woman so low, but jealousy stings her to the quick. She sees her unworthy lover pass out with the woman whom she had served and hated of old in the days of her governess-life. She starts forward in the despair of baffled love, and the eagerness of jealousy and with the wild step of revenge. She is lashed back by the whip of her former lover. She utters a yell of despair and hate, that rings through the silent night, so fierce and yet so faint, as if it came from the depths of a breaking heart. She chases, in a moment of agony, the flying chariot of the sinful couple, until breathless she falls beneath the lamp-post on the cold damp stones. The sound of the guilty wheel dies away, and all is silent again and still beneath the un pitying stars. After the lapse of an hour, Annie reappears amongst her company, more dazzling than usual, more brilliant than ever, with flashing eyes and a marvellous light upon her countenance. She bewitches every one she approaches with the fascination of her words, and startles them with the keenness of her wit. She prolongs the feast far into the night, ever starting fresh and fresh trains of conversation. Never was Anne Sherwood so gay and so attractive. She surpassed herself that night. How quick and sudden the transition from utter grief to seeming joy. How severe must the struggle be "to fix the brow into a kind of quiet," and show a rigid lip. Thus it is the heart escapes from breaking, but it is fearful to behold this life and death combat. What man—for we suppose men with their stronger natures, love more and hate more than women—would not

"Rather be a friar  
And live mowed up, than be a fool and flouted?"

Or who would not, sooner than love and be a woman's dupe, cry out with Bellair, in the *Wild Goose Chase*,

"No, I'll make hobnails first, or mend old kettles?"

We must hasten on to the conclusion of the tale, and leave to the curious in these matters, the singular articles of alliance which Annie drew up and forced upon her nominal lord and master in her second marriage, a marriage by which she won the triple advantage of revenge, a coronet and her own liberty.

Years have elapsed, as they will elapse in joy or in sorrow, for neither can add to the speed or stay the flight of irresistible time; and we find Annie once more a widow and at liberty, a wiser but a sadder woman, better able now than ever to meet the closing trial of her eventful life. She was now living in the Highlands, whose wild mountain scenery had something akin, in its desolate grandeur, to her own spirit. Drawn by the attraction which like has to like, she came to spend the sunset of her young life among the lone and desolate hills, that seemed by their loneliness, set apart from the outer world to be nature's monasteries, made for meditation. On one of those autumnal evenings, which are so sad and so solemn in their grandeur, Annie went forth to enjoy the repose, the rich repose that filled the earth and air. The sun had but now sunk beneath the horizon, blood-red and purple clouds were dispersing in dense masses, stretching away in ever changing shapes, as far as eye could reach. The sadness of autumn, the loneliness of the mountain scenery, or the recollections of life, or rather perhaps their united influence, lay on the spirit of Annie and touched her once tumultuous heart, joyless now and solitary as ever. We might almost fancy, as we watch her, standing on the edge of that projecting rock, gazing down on the foaming waterfall below, we could hear escape from her trembling lips the sad lament of Gretchen, in *Faust*—

“Meine Ruhe ist hin,  
Mein Herz ist schwer,  
Ich finde sie nimmer  
Ach nimmer mehr.”

The lonely watcher in that remote and secluded spot, was startled, on the sudden, by the sound of a well-known voice, a voice long loved, and remembered long. It rushed to her heart, like the first thought of love. She at last was at liberty, and Claude Douglas stood before her. Their eyes met, as they had met in the days of their first love. Neither had ever loved another. But the cruel fates, as of old, so now were unpropitious. As Annie sprang forward to fling herself into Claude's outstretched arms, her foot slipped, and she fell down, far down the precipice. Her white veil shone for a while, like hope, in the dim

depths, and then slowly, without a struggle, she sank below the foaming waters of that lonely Highland river.

Had the novel ended with this startling catastrophe, we should have been satisfied with the dramatic effect. But no, for some unaccountable reason, the authoress must needs recall the heroine to life again, for no purpose that we wot of, unless it be perhaps that she might, lying on a sick couch, talk maudlin sentiment to her lover, raise hopes in his breast only to disappoint them, and finally to dismiss him repentant to the wars, to win back glory to his tarnished name. This sending to the wars is, by the way, no new idea; it was the happy expedient fair ladies, in the days of chivalry, hit upon to rid themselves of superfluous lovers. It answered to perfection; it enhanced their renown, and was an excuse for their fickleness. We are not sorry to learn that Claude Douglas fell, sword in hand, in the chivalrous charge at Balaklava, where "rode the six hundred" to certain destruction. He scarcely deserved a death so glorious.

But why, we ask again, in the name of patience and of dramatic art, was the heroine, without sufficient cause in the plot to warrant an event so unusual, called back to life? It is against all rules.

*"Nec Deus intersit, nisi dignus vindice nodus  
Inciderit."*

We hate these needless resurrections. If Claude Douglas, to answer the purpose of the tale, was to go and be hanged or shot, we are sure he needed no ghost from the grave to tell him so.

Before we part with Anne Sherwood we should like, as a matter of curiosity, to strike a balance between her gains and losses. Count them up on the fingers. First a score of admirers, gratifying but not very useful; three offers of marriage, good, two husbands, a handsome dower, and a large fortune, with a coronet to boot; not so bad after all, enough at least to content, we should imagine, a moderate woman in these hard times for matrimonial speculations. These were all positive gains. Was it not a gain for a woman, who hated poverty, to become rich, for a proud woman to place a coronet on her brow, for an ambitious woman to win fame, and for a revengeful woman to have out her revenge to the full on the man who slighted her, and on the woman who was her successful rival? What was the sole set-off against

all these gains? Love, disappointed love. She had staked all the joy of her life on that die, and it failed. The horn of plenty, which the Goddess of Fortune showered into her lap, seemed to her heart like an Egyptian dearth. Annie had not caught the lesson of content from "the sweet uses of adversity." She did not make up her mind, like a true woman, to enjoy the present and forget the past. Her lips disdained the *Nepenthe* drink of oblivion. She preferred memory to hope. Poor foolish Annie, how absurd was grief like hers; remember life's pleasant things, so we all say, and yet half suspect the while, (though we dare not avow it,) that there may be a grief which cannot be forgotten. Poor Annie, did she not know that the day was short, and the night was coming, the night of peace? Besides, what else could she expect in a world like this,

"Where the big human heart  
Is but an auction mart  
For traffic, and barter, and sale;  
Where the old and the young  
Together are flung,  
With hearts all aflame and bosoms all pale?"

She was out in her reckoning; her place was in the outer ring, few enter the inner circle of life's delights. She belonged to the outer world, and ought to have been content with her lot in life. Love has a world of its own; it was not hers. She rebelled and was flung back upon herself. She learnt silence, but not submission. There was no murmur on her lip, but it quivered like an aspen leaf, and her eye was hot and tearless, as if it had burnt itself out. Love came not near her heart. Made for better things, she remained in the world, that had charms for her no more, with a heart unsatisfied, and with a quenchless desire for something higher and holier than it afforded. She had no consolation for a heart bruised by the heel of the world, and knew not where to look for support in her hour of trial. She might have exclaimed, in bitterness of spirit—

The outer world i From first for Deris lip, V	" (	teach to keep it
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We have treated this work of fiction as we found it. We avoided, on purpose, the introduction of the religious element, because, despite sundry pious passages, the book itself is written as if the world were all in all, as if there were nothing stronger than nature, sweeter than love, higher than humanity.

We do not know under what category the writer of Anne Sherwood would place the religious establishment of the country; whether it would take rank among the social institutions, or whether she would claim for it a higher position, is a question we take no heed to investigate. But we have observed, we cannot say with surprise, in this picture of a certain phase of English life, men and women, agitated by conflicting passions, undergoing the bitterest trials of life, enduring with a strength all but heroic, privations all but beyond the ordinary lot of humanity, yet unsupported by the principles of religion, uninfluenced by the bright examples of Christianity, unguided even by the faintest indication of the presence of supernatural motives. We find, laid open before our eyes, the refined sensualism of the Greek, the luxury and corruption of the Roman, and the hardihood of the Spartan, but not the fortitude which it somewhat resembles, of the Saint. The un murmuring submission of the will is not the resignation of the Christian, the unflinching endurance of the Stoic is not the self-denial of the Cross. If strict fidelity to life be the praise of the novelist, no blame ought to attach to the writer, who boldly holds up the mirror to nature. Society catches a reflection of itself, and is startled at its own deformity. It may shatter, indeed, the mirror to fragments, in its indignation, but the truth of the sight revealed remains, nevertheless, in judgment on its awakened conscience. We, however, are free to own that Protestantism is a signal failure in its operation upon the motives of action, a greater failure in its every-day work than in its Sunday wear. The minds of "enlightened" men in the nineteenth century incline to naturalism, and shrink with instinctive dread from the supernatural. Their eyes are restless unless they can pierce the veil that shrouds the Invisible. Their reason is ill at ease, unless it can track the ways of the Incomprehensible. Whatever remains unaccounted for by the light of unaided reason, is with them untrue. Protestantism is fast lapsing back into Paganism, into the worship of instinct, into the deifi-

eration of nature. It is Paganism without its grandeur of ritual, and its external obedience to the gods of its own creation. The Pagan, in the darkness of his superstition, watched the flight of birds, and examined the entrails of beasts, for a revelation of the Divine Will. We in Protestant England watch the flight of no birds, consult the wisdom of no auguries, but obey in pride of heart the motions of our own will, and rely only on the dictates of our own reason. In three hundred years and more of Protestantism, we have drifted far from the symbol of life. In the march of intellect we have left the cross behind. Though it tower in golden magnificence above the mighty dome that overshadows the city, the mart of nations, and the boast of civilization, yet it is lifted up to gratify the eye, not to reign over the hearts of men as a master. It is an ornament and nothing more. A piece of antiquarianism which modern progress has not yet abolished. As a principle, it is as obsolete as Gog and Magog. In a state of society where Rationalism revels in the university-hall, and is paraded and adopted, if not understood, in the reading-room of the artizan, where blind instinct, with all its consequent evils, is worshipped and obeyed in the workshop and mill, who can wonder that works of fiction, the chief intellectual food of a hungry multitude, should abound, animated by no principles, to say the very least, higher than those enunciated by the "Christian Socialist." In a state of society where the asceticism of the saints reckons as the absurdity of fools, where the cross is a sign to be contradicted, who can wonder at the immense mass of cheap literature, produced to pander to immorality and unbelief, and which, like a snake in the grass, taints with its poisonous breath the almost heathen population crowded together, like outcasts of society, in the dens of our large manufacturing towns? Iniquity rises like a malaria and contagion spreads. In the light of day, and amid the decencies of society, the insinuations and approaches of unbelief are veiled and masked. We may regard, therefore, with regret, rebuke with indignation, but cannot however wonder to-day at the Naturalism of a Berkeley-Aiken, or the muscular Christianity of a Kingsley.

- ART. VI.—1. *Correspondence of Charles, first Marquis Cornwallis*. Edited, with Notes, by Charles Ross, Esq. 3 vols. 8vo. London: Murray, 1859.
2. *The United Irishmen, their Lives and Times*. With additional authentic Documents; and numerous original Portraits. The whole Matter newly arranged and revised; by Richard R. Madden, M. R. I. A. First Series, 8vo. Dublin: James Duffy, 1857.
3. *The United Irishmen*. By Richard R. Madden. Second Series, 8vo. Dublin: James Duffy, 1858.

OF the many recent contributions to the history of the last two generations, from family sources, there is hardly one which possesses so much general interest, and certainly not one which possesses so special an interest for Ireland, as the private and confidential correspondence of Charles, Lord Cornwallis. For a space of nearly fifty years, from the commencement of the Seven Years' War till the middle of the great conflict into which the European kingdoms were plunged by the French Revolution, he was almost constantly engaged in public affairs, whether in a civil or a military capacity. For a considerable, and that the most critical, part of this long public service, he held in his own person the twofold responsibility of a civil and a military command. When he had hardly completed his twentieth year, he was attached to the staff of Lord Granby during the campaign of 1758, and was present at the various actions, including that of Minden, in which that general was engaged. In the American War he held a command from 1776 till 1781; and during the last years of this period, he may be said to have had the chief share in every transaction of real interest, as his command lay in what was the only seat of active operations. He had the unusual honour of twice holding the office of Governor-General of India; and he was sworn into office a third time, though he did not actually proceed to India. His first term of office (1786-93) included the memorable struggle against British Supremacy under Tippoo, and (at least for the social history of British India) the almost equally memorable "settlement" of the Land question. The occasion of his second nomination was the mutiny of the Bengal



Army in 1796. His third appointment was occasioned by the misunderstandings which arose between Lord Wellesley and the Court of Directors as well as the Government; and an appointment at such a crisis implied the highest tribute to Lord Cornwallis's ability, as well as to his tact and administrative capacity. The confidential correspondence arising out of such employments as these, must necessarily supply many curious personal revelations, as well as throw much interesting light upon the political events of the period.

But the great interest which Mr. Ross's volumes must have for our readers, arises, we need hardly say, out of Lord Cornwallis's Irish administration, during the bloody scenes of 1798-9, and the flagitious profligacy of 1800. During this entire time he was in daily correspondence with the heads of the Cabinet in London, and there is hardly a single event of any importance, the private history of which may not be read in his communications, or in the documents which accompany and illustrate them.

Less interesting to Irish readers, but not without considerable significance in the present condition of European politics, are the papers connected with Lord Cornwallis's French Mission to the First Consul, which resulted in the negotiations for the peace of Amiens. It would be difficult to trace the details of the analogy; but it is impossible to disguise from oneself that the existing uneasy and mistrustful condition of the public mind throughout Europe, which up to the present time no diplomatic negotiations have been able to reassure, arises from some real or fancied resemblance between the position of the present Emperor of the French, and that of the first Napoleon, during the period of his undeveloped supremacy. Lord Cornwallis's report of his interview with the First Consul is a most remarkable document, and well deserves the attention of the politician no less than of the historical student.

Lord Cornwallis's temper and disposition too, as well as the nature of the greater number of the commands which he held, have imparted even to his official correspondence a character very different from the cold and formal communications which we usually meet with under the name of State Papers. Most of his commands were independent. He refused the Governor-Generalship of India when it was first offered him by Lord Shelburne, because he considered its powers as then defined, too

limited for the satisfactory working of the administration ; nor was it till after Pitt's new East India Bill had enlarged the Governor-General's authority, that he was induced to undertake the office. When he consented to go to Ireland in 1798, it was only on the condition that the chief military, as well as civil, authority should be entrusted to him. Hence, as in all cases we find him acting almost entirely for himself ; we find him also in his correspondence with the heads of the government in England entering into fuller and more minute details for the explanation of his measures, than would probably have been offered by one who acted more by routine, and who shared with others the responsibility of the proceedings which he had to recount. Whether it be attributable to this circumstance, or to the frank and independent character of the writer, we look upon Lord Cornwallis's letters as among the most instructive state papers we have ever read.

We purpose, in the following pages, to give a short account of this collection of state papers, the most valuable in many respects which have been made public for a long time. We are happy to add that the editor has spared no pains to illustrate them by historical, biographical, and above all, genealogical annotations ; and his book in this particular presents a most creditable contrast to the many bald and slovenly publications of the same class which, for the last ten years, have inundated the literary market.

Charles, Earl, and subsequently Marquis, of Cornwallis, was the sixth child, but eldest son, of the first Earl Cornwallis, and was born December 31, 1738. He was sent early to Eton, where the most notable circumstance in his history, is his receiving at the game of hockey, from Shute Barrington, subsequently bishop of Durham, a blow on the eye which produced a slight obliquity of vision never afterwards removed. Whether after leaving Eton he entered the University appears more than doubtful ; and at all events it is certain that before he had attained his eighteenth year he had received his commission in the 1st Guards, now the Grenadier Guards. He was soon afterwards sent, under the tutorship of a Prussian officer, to the military academy of Turin, where he remained for a short time ; and ultimately joined the British force which was collected in Germany under Lord Granby, in 1758.

In the following year, however, he was returned to Parliament for the borough of Eye, which he continued to represent till the death of his father; when, succeeding to the Earldom, he took his seat in the House of Lords in November, 1762. Nevertheless, his career (although he is the object of a violent tirade in one of Junius's Letters) does not present any event at all deserving of notice, till the commencement of the American War, in which, although he had uniformly declared his sense of its injustice, and of the impolicy and inexpediency of the proceedings which led to it, he accepted a command as general of division, and embarked for America, February 10th, 1776.

The history of this ill-starred campaign is familiar to all our readers, nor will the papers published by Mr. Ross modify in any material particulars the judgment which has long since been pronounced regarding it. Lord Cornwallis's share in the responsibility appears, from all this correspondence, to have been precisely what was represented at the time.

The same too, may be said of the military portion of the history of his command in India. That part of his correspondence which bears upon the Mysore campaign, is unquestionably exceedingly picturesque and graphic; and well deserves for its own sake to be carefully studied by those who feel an interest in the military history of India. We have often been reminded, in turning over its pages, of the incidents and characters of the late campaign. With little change beyond that of names and dates, many of Lord Cornwallis's letters might be taken for the despatches of Lord Clyde written in the course of last year; and although the operations of a single bold and vigorous leader, such as Tippoo, must necessarily have differed widely from the weak and disjointed efforts of the unorganized masses which constituted the rebel army of 1857-8, yet, from that seeming immobility which marks the oriental character, it would appear as if, in the narratives of last year, the very same scenes and events were repeating themselves after an interval of more than half a century, and as if, merely shifting from Mysore to the kingdom of Oude, we had but opened once again the same chapter of the great historical metempsychosis.

The history of Lord Cornwallis's civil government in India, however, is much more important, and possesses a

much higher practical interest, as bearing upon the present condition of that vast and long-misgoverned empire. Statesmen have long felt that the source of the social evils of India lies far deeper than the forms of government, and even, important though they be, than the details of political and legal administration. The real question upon which the fortunes of India turn is that of the tenure of land, and of the relations of the government thereto. In succeeding to the various native governments which we have displaced in India, by the successive steps of conquest or cession, we have also succeeded to what had been the common machinery of all for the raising of revenue—the land-tax, in some of its various forms. That this tax had been most arbitrary and oppressive, and that its exaction had been attended with the utmost cruelty, fraud, and corruption, under all the native governments, is quite certain; nor can it be doubted that, even where it has been most abused under British rule, the abuses have fallen far short of those which had become inveterate under the native rulers. But, nevertheless, it must be also confessed that our own administration of the land-system of India has been, and, we fear still is, a disgrace to the name of British justice and humanity.

It is well known that in India three different systems of land tenure prevail—the *village* system, the *ryotwarry* system, and the *zemindarry* system. In each of these three systems the Government exacts a certain amount of rent or land-tax, which forms in the whole nearly three-fifths of the entire Indian revenue.\*

In the *village system*, which prevails throughout the North Western provinces, from Gorruckpoor and Benares to Delhi, the assessment is made, not upon individual cultivators, but upon villages; and the Government deals, both for the assessment of the amount and for its ultimate collection, not with the individual cultivator (or ryot), but with the village authorities, whoever they may be. In some districts a system called Bhyakarah (brotherhood), prevails, according to which the affairs of the village are managed by an elective committee (locally designated by the, to us ludicrous, name of *Punch*,) who, upon the one hand, settle with the collector for the assessment of the entire tax

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\* Fifteen of the twenty-six millions of yearly revenue.

chargeable on the village, and, on the other, apportion among the villagers their respective amount of contribution, for the due collection of which from individual ryots they are themselves responsible to the collectors. In other districts, the primitive and democratic constitution of the village system has been supplanted by the usurpation of one or more powerful individuals,\* who, (by a modification of the system, to be explained hereafter), permanently hold the place of the elective *Punch* already described, and, under the title of Zemindars, possess almost arbitrary powers in reference to the individual residents of the village. But in this case also the Government deals directly with them, and not with the ryots themselves, whom it leaves, both for the amount to be levied and the manner of its collection, to the dominant party of the village. In other places there is still a further departure from the democratic system; certain powerful families or individuals having usurped authority over all the villages throughout an entire district. In such case the immediate action of the Government is withdrawn by another step from the individual ryot. The collector, in this system, deals directly with the zemindar of the district for the whole amount of its land revenue, leaving it to him to arrange with the several village zemindars for the proportions to be paid by their respective villages, they themselves, in their turn, having authority to apportion this amount among the individual ryots of each village. It is hardly necessary to observe, that although in each of these three forms of the village system, a new and progressively increasing burden is placed upon the unhappy cultivators, yet, in all three, the Government is removed from *direct* connexion with the details of assessment for individuals, or with the means employed for compelling payment of the tax so apportioned among them.

! In the *ryotwarry* system, no such machinery for self-assessment or for joint liquidation of the land-tax exists.

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\* These individuals are known as the *zemindars* of the village;—a name which will be presently explained in the more general signification in which it is understood in the Bengal Presidency. Even where the authority of the zemindars extends over a number of villages (as explained above), they are still called by the same name.

Each individual *ryot* (cultivator), holds, directly as it were, from the government, and is himself individually responsible to the collector for the amount of tax at which he is assessed. The collector or his deputy makes a circuit of the collectorate at stated periods, first for the assessment of the various holdings, (in which are included an agreement as to the quantity of land to be cultivated by the *ryot*, and the kind of crop which he is to produce) and afterwards for the collection of the amount assessed upon each *puttee*, or holding. We need hardly add that the Report of the late Commission of Inquiry into the Use of Torture at Madras, disclosed the existence, among the native agents employed in the collection, of a system of torture for the exaction of revenue, the details of which are in the highest degree cruel and revolting, and even offensive to decency itself. Unhappily, moreover, it was but too evident that, although the British officials did not personally participate in these hateful transactions, they must have been in many cases fully cognizant of their existence, or at least must have wilfully shut their eyes and ears against opportunities of information.

The third, or *zemindarry* system of tenure, appears to have arisen out of the village system. The office of president of the village council of assessment, being held for a series of years by members of some powerful family, came, in progress of time, to be regarded as hereditary, and eventually was supposed to imply some proprietorial rights on the part of the hereditary holder. No doubt is now entertained that there was not any real foundation for this supposed right.\* But in considering the question with a view to its general adjustment, Lord Cornwallis thought it expedient to deal with the rights of the *zemindars*, where (as in the Bengal Government) this form of tenure prevailed, strictly on the supposition that they were the actual proprietors of the soil, and that the *ryots* who held land in the *zemindarry*, stood to them in the exact relation of tenants. The justice and policy of this proceeding were severely criticized at the time. The plan, too, was vehemently resisted, and eventually rejected by Sir

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\* The word *zemindar* means simply *land-agent*; *zemeen* signifies *land*, and *dar* being but the normal terminational affix, signifies one who deals in, or manages, that to which it is affixed.



Thomas Monro in the Madras Presidency, where the ryotwarry system is still maintained, and where the assessments are still temporary and variable. Lord Cornwallis, nevertheless, firmly adhered to the twofold principle;—of proprietary zemindars, and of a permanent settlement of the revenues; and the papers printed in the appendix of the first and second volumes, contain a detailed and most elaborate exposition of the entire state of the land question, together with a strenuous vindication of the course which he himself recommended for adoption. We cannot help thinking that, in the readjustment of the finances of India, which, sooner or later, must force itself upon the legislature, these papers, and the documents upon which they are founded, will deserve the most careful consideration. The editor has devoted an interesting chapter to a resumé of the whole question which may be read with great advantage; but the materials for a full investigation of it, and for the guidance of the reader's own judgment, must be sought in Lord Cornwallis's own papers, and especially in a long Minute, dated Feb. 10, 1790 (II. 459-74), and two other papers addressed to the Directors, Aug. 28, 1792, and Mar. 9, 1793.

To these papers we must refer all who are specially interested, whether in the past history of the Indian Land-question, or in the future discussion of that important subject. The present is perhaps the most favourable opportunity for its reconsideration that could possibly have arisen. As regards two of the presidencies, that of Madras and that of Bombay, it may still be said to be in some sense an open question. And in every part of India, even where the permanent settlement has been so long in force, there are numberless details, and those of the most vital importance, which not only admit but invite a searching revision and readjustment. It is on the adjustment of these details, much more than on those great schemes of legislation to which European legislators naturally turn, that the future fortunes of India really depend.

We have already said, however, that, for our readers, the main interest of the Cornwallis Papers lies in the Irish Correspondence from 1798 to 1801. For some portion of the curious revelations of this correspondence the public had been prepared by the Irish division of the Castlereagh Papers. Another and still more startling glimpse into the secret history of that period was given by Dr. Madden, in



his elaborate and searching Memoirs of the United Irishmen, which we are happy to see in a new and more generally accessible edition, of which two volumes have already appeared. But neither the Castlereagh Papers, nor the documents collected by Dr. Madden, can possess the same interest, or at least can carry with them the same authority, as the correspondence of the responsible director and chief of all the proceedings which he records, especially of one who, like Lord Cornwallis, was not content to accept at second-hand the judgment of others, but required to be personally informed of all that was done in his name. The circumstances, too, in which he came to Ireland, and the juncture of public affairs at which he entered upon the vice-royalty, give to his opinions a weight to which those of the earlier witnesses on the side of government cannot fairly be held entitled. When Lord Cornwallis arrived in Ireland, the Rebellion had already reached its crisis. With the causes which led to the public dissatisfaction, with the early measures, by which the government sought, on the one hand, to force it on into premature violence, on the other, to repress it by the most revolting cruelties, he was entirely unconnected. He had no foregone conclusions to maintain, no confident predictions to verify, no hereditary vindictiveness to indulge. He came to Ireland comparatively a stranger; and, although of course his bias was strongly towards the government measures and views, he was able to look upon both parties with a comparatively impartial eye. His first impressions of the state of things in Ireland, therefore, are of the utmost value; and our main object in this notice is to collect these views, in so far as they are preserved in his letters, and in the other papers which he embodied in his Correspondence. It would carry us far beyond our allotted limits, indeed, to enter into the history of this unhappy period; and we shall merely weave together such portions of Lord Cornwallis's letters as exhibit most strikingly the views which he formed regarding the state of parties in Ireland, the causes in which her evils originated, and the spirit by which the dominant factions of the time were animated towards the English government on the one hand, and towards their unhappy fellow-countrymen on the other.

Mr. Ross has prefixed to the papers bearing on Irish affairs in 1798, a short sketch of the state of Ireland at the

time of Lord Cornwallis's entering on the government. His views, although somewhat coloured, as may be supposed, by the medium through which he derived them, are, on the whole, marked by candour and moderation. In describing the alarming state of things which compelled the government to place at the head of affairs a person of undoubted firmness and acknowledged judgment, and to vest in his hands the supreme military as well as civil authority, he acknowledges that "a long course of neglect and misgovernment had brought Ireland into this dangerous position. Formerly the Irish Parliament met but once in two years, and was only necessarily dissolved by the death of the Sovereign. The grossest corruption prevailed, and Ministers, almost always able to carry any question about which they were really anxious, were very indifferent to the real interests of the country. A perpetual Mutiny Bill relieved them from all difficulty on that subject. Little by little some points were gained by the popular party. An Octennial Bill was passed, and when, owing to the difficulties of England, the regular troops were nearly all withdrawn from Ireland, a general flame burst forth which led in 1778 to the formation of the Volunteer corps. Forty-two thousand men were gradually enrolled—the officers, rejecting royal commissions, were chosen by the members of each corps, by whom also Lord Charlemont was nominated the General." He proceeds to detail the course of events by which the Volunteer Association led to the formation of the Convention, the Convention to the Society of United Irishmen, and this in its turn, to the appeals for aid from the French Directory. The Volunteer Association, however, as Mr. Ross observes, contained within itself the seeds of certain and inevitable disunion. He points out that "the inhabitants of Ulster were mostly Presbyterians, and though the republican nature of their tenets disposed them eagerly to join the United Irish, they hated the Roman Catholics, and were no advocates for their emancipation. As long as the Roman Catholic members of the Society remained in a minority, and the doctrine of emancipation was kept in the background by the Executive, the Presbyterians joined heartily in the conspiracy; but when the population of the east and south enrolled themselves, and emancipation became an open and leading object, the hatred of Popery diminished the zeal of the Ulster peasantry. The Executive Committee laboured

energetically to re-excite the spirit of disaffection in the north; but as some months passed before their efforts were in any degree successful, their position at the close of 1797 was one of great perplexity."

With these divided councils and conflicting views on the part of the insurgents, the opposite party was at least united in one particular—a deep and rooted spirit of revenge and blood. Lord Cornwallis, from the very moment of his arrival, expresses, without reserve, his shame and horror at the scenes which he is forced to witness, and the sentiments which meet him in every department of government and every grade of society.

"The overt rebellion," he writes to Major-General Ross, July 24, 1798, "is certainly declining, and the principal leaders in Kildare have surrendered with a stipulation for their lives only; but the whole country is in such a state that I feel frightened and ashamed whenever I consider that I am looked upon as being at the head of it. Except in the instances of the six state trials that are going on here, there is no law either in town or country but martial law, and you know enough of that to see all the horrors of it, even in the best administration of it; judge then how it must be conducted by Irishmen heated with passion and revenge. But all this is trifling compared to the numberless murders that are hourly committed by our people without any process or examination whatever. The yeomanry are in the style of the Loyalists in America, only much more numerous and powerful, and a thousand times more ferocious. These men have saved the country, but they now take the lead in rapine and murder. The Irish militia, with few officers, and those chiefly of the worst kind, follow closely on the heels of the yeomanry in murder and every kind of atrocity, and the Fencibles take a share, although much behindhand with the others. The feeble outrages, burnings, and murders which are still committed by the Rebels, serve to keep up the sanguinary disposition on our side; and as long as they furnish a pretext for our parties going in quest of them, I see no prospect of amendment.

"The conversation of the principal persons of the country all tends to encourage this system of blood, and the conversation even at my table, where you will suppose I do all I can to prevent it, always turns on hanging, shooting, burning, &c., &c., and if a priest has been put to death the greatest joy is expressed by the whole company. So much for Ireland and my wretched situation."—Vol. ii., pp. 368-9.

Even to the Duke of Portland, in a secret and confidential despatch, dated September 16th, he is almost equally unreserved.

"The quick succession of important events during the short

period of my Lieutenancy has frequently diverted my attention from the pursuit of that great question—How this country can be governed and preserved, and rendered a source of strength and power, instead of remaining an useless and almost intolerable burthen to Great Britain.

“Your Grace will not be so sanguine as to expect that I am now going to tell you that I have succeeded in making this discovery. Sorry am I to say that I have made no further progress than to satisfy myself that a perseverance in the system which has hitherto been pursued, can only lead us from bad to worse, and after exhausting the resources of Britain must end in the total separation of the two countries.

“The principal personages here who have long been in the habit of directing the councils of the Lords Lieutenants are perfectly well-intentioned and entirely attached and devoted to the British connexion; but they are blinded by their passions and prejudices, talk of nothing but strong measures, and arrogate to themselves the exclusive knowledge of a country, of which, from their mode of governing it, they have, in my opinion, proved themselves totally ignorant.

“To these men I have shown all civility and kindness in my power, and have done for them all ordinary favours which they have asked, but I am afraid that they are not satisfied with me, because I have not thrown myself blindly into their hands. With the Chancellor, who can with patience listen to the words *Papist* and *Moderation*, I have invariably talked on all public points which have occurred, and I have shown no marks of confidence to any other set of men, and have particularly given no countenance whatever to those who opposed the former Government. I have at all times received the greatest assistance from Lord Castlereagh, whose prudence, talents, and temper I cannot sufficiently commend.

“No man will, I believe, be so sanguine as to think that any measures which Government can adopt would have an immediate effect on the minds of the people, and I am by no means prepared to say what those should be, which slowly and progressively tend to that most desirable object.

“I have hitherto been chiefly occupied in checking the growing evil, but so perverse and ungovernable are the tempers here, that I cannot flatter myself that I have been very successful.”—Vol. ii., pp. 404-5.

In an earlier letter to the same nobleman, he represents every class in Ireland as infected with the same thirst of blood. In deploring the ferocity of the troops, he expresses his fears that, in the Irish corps at least, it is not confined to the private soldiers. (p. 355.) He describes the Irish militia (p. 357.) as “contemptible before the enemy, but

ferocious and cruel in the extreme when any poor wretches, either with or without arms, come within their power;" adding, that "*murder appears to be their favourite pastime.*" The parliament he pronounces to be "in a temper, which makes it impossible to conduct business with credit to themselves or utility to the state;" (p. 358.) and of the feelings of all the influential classes, without exception, he speaks in a tone of almost hopeless despondency. "The principal persons of this country," he says, "and the Members of both Houses of Parliament, are, in general, averse to all acts of clemency, and although they do not express, and perhaps are too much heated to see the ultimate effects which their violence must produce, would pursue measures that could only terminate in the extirpation of the greater number of the inhabitants, and in the utter destruction of the country. The words Papists and Priests are for ever in their mouths, and by their unaccountable policy they would drive four-fifths of the community into irreconcilable rebellion; and in their warmth they lose sight of the real cause of the present mischief, of that deep-laid conspiracy to revolutionize Ireland on the principles of France, which was originally formed, and by wonderful assiduity brought nearly to maturity, by men who had no thought of religion but to destroy it, and who knew how to turn the passions and prejudices of the different sects to the advancement of their horrible plot for the introduction of that most dreadful of all evils, a Jacobin revolution."

From the very commencement of his Lieutenancy Lord Cornwallis discountenanced the settled determination of the ascendancy party to regard the revolutionary movement as a matter purely of religion. The habit of "*substituting Catholicism for Jacobinism as the foundation of the rebellion,*" met with his hearty condemnation; but he found that the spirit of the Chancellor, which he deploras in his letter to the Duke of Portland, was but too generally the characteristic of Irish Protestantism, and he was forced to confess that religious animosities were the great obstacle to any just, moderate, or lasting measures of amelioration.

One of his letters (July 26th, 1798) to the Duke of Portland places this in a very painful light.

"A proposition of an extraordinary nature was brought to me on the night of the 24th, from a number of the state prisoners, and

the greater part of the men of consequence amongst them, (a list of their names is enclosed) offering to make acknowledgement of their offences, and to submit to banishment for life to any country in amity with His Majesty, provided that Byrne and Oliver Bond, who were then under sentence of death, and Neilson, who is not yet tried, but who is likely to be condemned, might be included in the offer, and be allowed to share the same fate with them. Your Grace will observe that it is in general supposed, that there is scarcely any one of the prisoners, except Neilson, against whom there is any evidence that is likely to convict him.

“I confess that I thought this a question of the greatest importance, and one that deserved the most mature consideration, and Lord Castlereagh was of the same opinion, but we doubted whether it would be possible to find a third man in this place that would agree with us, and I was sensible of the danger of taking a step without some legal or political support, that would irritate almost to madness the well-affected part of this kingdom. There was but little time for deliberation, as Byrne was to be hanged on the 25th, and Oliver Bond this day. The Chancellor, who, notwithstanding all that is said of him, is by far the most moderate and right-headed man amongst us, was gone for a week to his country house in the county of Limerick for the recovery of his health, which has of late been much impaired, and I knew of no other of our political friends who was likely to have temper to bear even the statement of the question. I sent therefore yesterday morning, as professional men, for Lords Carleton and Kilwarden, the Attorney and Solicitor-General, and the Prime Serjeant, when Lord Castlereagh submitted to them the paper with the signatures above mentioned.

“Lord Carleton, who might in any country be considered as a cool and temperate man, gave his opinion in the most decided manner against listening to the proposal, and declared that it would have such an effect on the public mind, that he did not believe, if Byrne and Oliver Bond were not executed, that it would be possible to get a jury to condemn another man for high treason. He said that several of those who signed the papers, and particularly Dr. M'Nevin, might possibly be convicted, and that others might be liable to pains and penalties by proceedings against them in Parliament, and in short he gave his opinion against the measure in the strongest and most decided terms, and Lord Kilwarden and the Attorney-General spoke to the same effect.”—Vol. ii., pp. 370-2.

Lord Cornwallis adds that he was not convinced by their arguments, but unfortunately, with all his firmness and self-reliance, he could not venture to act against them. “I did and still do consider,” he says, “the establishment of the traitorous conspiracy by the strong testimony of all the principal actors in it, to be a matter of much more



consequence than the lives of twenty such men as Oliver Bond; but the *minds of people are now in such a state, that nothing but blood will satisfy them*, and although they will not admit the term, their conversation and conduct point to no other mode of concluding this unhappy business than that of extirpation. Aylmer and the principal leaders of the rebellion in Kildare are now in confinement here previous to their banishment, by which peace seems to be in a great degree restored to that part of the country, and although the acceptance of the submission of these people has been *a most unpopular measure*, I have consented to grant the same terms to a man of the name of Byrne, who is the most powerful and active leader of the Rebels in Wicklow." In some cases, however, he acted with greater decision and independence. We may instance one, the circumstances of which are detailed by Mr. Ross.

"A party of the Mount Kennedy corps of yeomanry, one of whom was Whollaghan, were patrolling at night. They entered a cabin occupied by a woman named Dogherty and her son, who was at that time eating his supper. Whollaghan charged him with having been a rebel, and declared he would kill him. The young man begged the soldier to spare his life, and expressed his readiness to go before a magistrate. Whollaghan however twice snapped his piece at him, and one of his comrades coming in fired and broke Dogherty's arm, although the poor mother, seeing their murderous intentions, endeavoured to seize the muzzle of his gun. Whollaghan, in spite of her prayers and entreaties, deliberately levelled at Dogherty, who was lying on the floor, and shot him dead. A permanent Court-Martial, consisting of Lord Enniskillen, President, a Major, and three Captains of the 5th Dragoons, one officer of the Fermanagh militia, and one of the 68th, was sitting at Dublin, and Whollaghan was brought before them. The facts above stated were not denied, but the defence was, that Dogherty had been a rebel, though now provided with a protection, and that Whollaghan was a very loyal subject. To prove this some evidence was tendered, and, as it was mostly hearsay, very improperly admitted. The sentence pronounced on the prisoner was, that 'this Court do find that he did shoot and kill Thomas Dogherty, a rebel, but do acquit him of any malicious or wilful intention of murder,'—Vol. ii., p. 420.

Lord Cornwallis, as soon as the proceeding was made known to him, at once directed the military secretary to address to the Commanding Officer of the district the following well-merited censure.



“Sir,—Having laid before the Lord Lieutenant the proceedings of a General Court-Martial held by your orders in Dublin barracks on Saturday the 13th instant, of which Colonel the Earl of Enniskillen was President, I am directed to acquaint you that his Excellency entirely disapproves of the sentence of the above Court-Martial, acquitting Hugh Whollaghan of a cruel and deliberate murder, of which, by the clearest evidence, he appears to have been guilty.

“Lord Cornwallis orders the Court-Martial to be immediately dissolved, and directs that Hugh Whollaghan shall be dismissed from the corps of yeomanry in which he served, and that he shall not be received into any other corps of yeomanry in this kingdom.

“His Excellency further desires that the above may be read to the President and Members of the Court-Martial in open court.

“I have, &c.,

“H. TAYLOR, Mil. Sec.

“P.S. I am also directed to desire that a new Court-Martial may be immediately convened, for the trial of such prisoners as may be brought before them, and that none of the officers who sat upon Hugh Whollaghan be admitted as Members.”—Vol. ii., pp. 419-20.

Mr. Ross adds.

“Whollaghan’s was by no means a solitary case. Many other trials took place in which the members of the courts-martial, influenced by similar feelings, availed themselves of every subterfuge; sometimes admitting illegal, sometimes rejecting legal, evidence, to avoid giving a just and honest decision. Among such cases may be mentioned the trial of Lieutenant ——— of the ——— militia, who, at the head of a party of his men, had committed a crime as nearly similar as possible to Whollaghan’s. Though the murder took place in June, 1798, the trial was postponed to May, 1799, when Lieutenant ——— was acquitted, but some of his men were convicted, the sentence being—guilty, death. ‘But it appearing that the deceased had belonged to a yeomanry corps which had been disbanded, and that he had not joined any other, the Court are of opinion that at the time the crime was committed, the prisoners did not think they were doing an improper act in putting a person *that they thought a Rebel* to death, and from their former good conduct, the Court submit to his Excellency whether they are not fit objects for mercy, and be sent to serve in a regiment abroad for life.’ . . . .

“Lord Cornwallis took the opinion of the Attorney-General, as to the possibility of trying by another Court-Martial Lieutenant ———, who was evidently the most culpable, as the party acted under his orders; but receiving an answer in the negative, he recommended that the Lieutenant should be dismissed from the

service. These instances prove that Lord Cornwallis had ample grounds for the strong expressions often used in his private letters.” —Vol. ii., p. 421.

But we must not, over these frightful scenes, detain the reader too long from what is certainly the most curious part of the disclosures contained in Lord Cornwallis's correspondence—the papers of 1800—1801, which regard the Act of Union. Lord Cornwallis, of course, (as indeed almost every one whose correspondence appears among his papers,) is very clear and decided as to the policy and necessity of that measure. But the main ground on which Lord Cornwallis advocates it, is the gross and all but hopeless corruption of the entire parliamentary and political system of the country. As a sample of the jobbing which was then prevalent, and the unblushing audacity with which it was pursued, we are tempted to transcribe one letter which Mr. Ross has inserted in the collection. The writer is Richard, Viscount Longueville, who had been M. P. for various Irish boroughs, from 1761 till 1795, when he was raised to the peerage. The following is one of a large collection, of the same tenor and character, preserved in Dublin Castle, and for the most part addressed to Mr. Kippax, then chief clerk in the Secretary's Department. It must be premised that the matter in dispute was the office of Storekeeper in Cork, the late occupant of which had just died, and the reversion of which had been promised to be placed at Lord Longueville's disposal. It appears, notwithstanding, that, by some secret intrigue, the late occupant of the office, being himself incapacitated for its duties, had obtained permission to sell it for £1950,—in reality to the collector of the port, but nominally to a third party. This Lord Longueville regards as a gross fraud upon himself, and he is loud in his denunciation of the parties “who got the infamous act transacted,” the chief of whom was his rival in local political influence, Lord Shannon. “I had obtained,” he says, “the promise for my opposition to Lord Shannon, in Lord W. and the M. of B.'s Government—I was doubly a purchaser; I had given a pecuniary as well as a parliamentary consideration for the patronage of Cork. Every man knows it cost me twenty thousand pounds at Cork to support His Majesty's measures and Ministers during and since the Regency business, and the

only compensation I received was the patronage of that district: it was held inviolate to me until now."

It is on this grievance that he enlarges in the following characteristic document.

" Lord Longueville to Charles Berkeley Kippax, Esq.

" Dec. 14, 1798.

" My Dear Sir,

" I never felt myself injured so sensibly as by the late transaction. I have a positive grant of the office Mr. Strettle enjoyed whenever he died, under Lord Hobart's hand; Lord Shannon knew it, and yet he has been the person who has made Government act *so meanly and unjustly*, so Lord Castlereagh states to me. Now I have written to Mr. Pitt and Lord W. to London, and two letters to Lord Castlereagh there, according to your advice; I shall wait the consequence with impatience.

" I have stated *that thief Pelham's misconduct* to me in full terms to them all, and dwelt much on his giving Purefoy's employment away without the promised equivalent elsewhere for the infringement of the engagement at Cork. Mr. Cooke is the man who opposes me, and, to the utmost of his power, serves Lord Shannon. I am afraid my letters to Lord Castlereagh may be stopped in Dublin, though they are directed to London. The Chancellor is the person who has made Cooke so violent and active for Lord Shannon. Lord Castlereagh in his letter to me knows nothing of the business, and he confounds it with Harrison's, which he says is ordered. No Harrison appears, or any man for him. I wish you would appear for him and get it finished.

" Now Strettle's office, which was given to me when he went to Lisbon, is given over. On his return Mr. Shaw gave him 1950*l.* for to appoint him deputy. He took chance, through Lees, to get the name of a brother inserted in the room of Strettle's. He failed unless I agreed to refund him. He then agreed with Mr. Harding, a friend of Lord Shannon, and he allows Mr. Harding 200*l.* a-year for his name and doing duty. On Harding's first application Lord Shannon wrote to him that the thing was impossible, as it was engaged to me, and desired him to think no more of it. On Lord Camden's departure Lord Shannon wrote to Harding that he had contrived to get it for him, and get him appointed in the room of Strettle, who had nothing to say to the office, having sold all his right for 1950*l.* to Shaw. My letter from Lord Hobart states that whenever Strettle died I should have the employment for my friend. Of course I had no claim until his death, nor Government any knowledge of the pecuniary dealing. The office is now 1000*l.* a-year; it has increased by the war, as the merchants have not money to pay the duties on their own cellars are made the stores, for

Lord Shannon has not acted as I expected ; I have found the old adage true, 'a reconciled friend is a double enemy.' However, Government and that Mr. Pelham are more to blame than he is, for I well know he, Lord Shannon, will take all he can from the Government, and he cares not what scrape he brings them into.

" Send me two new almanacks of different kinds, and anything new for Christmas.

" What is become of Harrison ? On the 4th of July, 1797, Lord Camden gave me Davis's office for him. Davis recovered, and Lord Camden wrote to me that he would put Harrison into the office before he went away. Davis agreed, and now on the 14th of December, 1798, it remains uncompleted, and on account of Harrison, though I have often wrote to him.

" Most truly yours,

" LONGUEVILLE."

—Vol. iii., pp. 17, 18.

Lord Longueville is hardly an exaggerated type of the Irish parliamentary jobber of the last century. It need not be matter of surprise that this very spirit of corruption, universal as it was, was the instrument with which the Government of 1800, resolved to carry, at any cost, the measure of Union, employed for the purpose of effecting the overthrow of the system. The gross and wholesale bribery by which the Union was effected, and which embraced almost every class possessed of political influence, and assumed almost every conceivable shape of allurements, has long been a proverb. Dr. Madden's volumes contain numberless and most revolting details of the earlier and even more hateful profligacy of the Government and its officials during the progress of the Rebellion. But we owe to Mr. Ross the complete exposure of all the details of the Union intrigues, which may startle even those who had been most deeply impressed with the general truth of the popular opinions regarding it. We must leave to the reader himself the task of tracing out, through its manifold forms, the strange and disgraceful story, written in the historical records which Mr. Ross has brought to light. But it is impossible even to glance into the pages of his third volume without being struck, not only by the universality of these corrupt practices, but also by the openness and absence of all attempt at concealment, which characterised many of the actors. " Lord Castlereagh pointed out how many of the various classes affected by the plan originally proposed, might be conciliated. — These were, 1st, Borough Proprietors, who

might be compensated ; 2nd, the primary, and, 3rd, the secondary interest in counties. If each county had but one member, the primary interests would still be predominant, though exposed to frequent contests, but the secondary must be destroyed. By retaining both seats all parties would be gainers, as a seat in the Imperial Parliament would be of greater value than a seat in the Irish House. 4th, Barristers, of whom there were fifty in this Parliament ; they had always considered a seat in Parliament as the road to preferment. 5th, the purchasers of seats, who might receive compensation. 6th, individuals connected either by residence or property with Dublin."

The estimated expenditure required to effect this wholesale purchase of the opponents of the measure was a million and a half, but it far exceeded that amount. In the direct purchase of the support of needy hirelings, chiefly in the class of barristers, a large sum was expended. Lord Castlereagh's correspondence with Mr. Wickham, contains repeated demands for the secret subsidies to be employed in this disreputable service. "Already," he writes, Jan. 2, 1799, "we feel the want, and indeed the absolute necessity, of the *primum mobile*. We cannot give that activity to the press which is requisite. We have good materials amongst the young barristers, but we cannot expect them to waste their time and starve into the bargain. I know the difficulties, and shall respect them as much as possible in the extent of our expenditure ; but notwithstanding every difficulty, I cannot help most earnestly requesting to receive 5000*l.* in bank-notes by the first messenger." So early as the 7th of the same month, Mr. Wickham replies (p. 34) that he has the satisfaction to say that "a messenger will be sent off from hence in the course of to-morrow with the remittance particularly required for the present moment, and that the Duke of Portland has every reason to hope that means will soon be found of placing a larger sum at the Lord-Lieutenant's disposal." In the end of the same year Lord Castlereagh expresses his hope "that the Duke will not be surprised at my requesting that you will assist us in the *same way* and to the *same extent* as you did previous to Mr. Elliott's leaving London. The advantages have been important, and it is very desirable that this request should be complied with without delay."

On the second of Jan. 1800, Lord Castlereagh writes to

Mr. King, then Secretary of the Treasury, "I am impatient to hear from you on the subject of my letter to the Duke. We are in great distress, and I wish the transmiss was more considerable than the last, it is very important that we should not be destitute of the means on which so much depends." On the 25th, he renews the application still more urgently, (p. 170). On the 27th Feb. he writes again :

" . . . . I see no prospect of converts ; the Opposition are steady to each other. I hope we shall be able to keep our friends true. A few votes might have a very injurious effect. We require *your assistance*, and you *must* be prepared to enable us to fulfil the expectations which it was impossible to avoid creating at the moment of difficulty. You may be sure we have rather erred on the side of moderation. . . . ."—Vol. iii., pp. 200, 201.

On March 1st, same year, Mr. Cooke writes most urgently (p. 202) to know when the promised remittance will arrive. But some difficulties seem to have arisen, for Mr. Cooke, after seeing the Duke, writes to Lord Castlereagh (p. 226), April 5, 1800, "I have seen the Duke of Portland and Mr. Pitt a second time. The Duke is anxious to send you the needful. Mr. Pitt was equally disposed, but fears it is impossible to the extent. He will continue to let you have from 8,000*l.* to 10,000 for five years. I hope to find out to-night what sum can be sent."

This, however, was but one of the classes to which this gigantic scheme of corruption addressed itself. The great parliamentary interests were to be purchased up; partly by peerages or promotions in the peerage, partly by hard cash, in the shape of compensation for disfranchised boroughs, which were bought up (at £15000 each, apportioned when there were several joint proprietors, according to the several interests\*) with a sum of £1,260,000. One proprietor, Lord Downshire, received in this way, £52,500. Twenty-two new Irish peerages were created, and nineteen peers

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\* The table, a most curious one, is given at pp. 321-3. The proceeds of three Church boroughs were paid over to the Board of First-fruits, and the sum of £15,000 for the borough of Swords, which was *nullius*, was expended in founding the Free School of that town, which has been the subject of so much recent disputation.

received promotion, while several others received English peerages.

Public men of less ambitious views, were conciliated by places, many of them sinecures, and pensions, or money compositions for pensions. Of thirty-two “friendly” barristers, who took the part of the Government in the meeting of the Bar, in December 1798, there were but five who, in the distribution of places, at the end of 1803, remained unrewarded.

A still lower deep of profligacy is revealed in the following memorandum: which, however, rather regards the corruption practised during the Rebellion, than that of the Union.

“Pensions to Loyalists.

“I submit to your Lordship on this head the following:—

“First, that Mac—— should have a pension of . . . . . £300

“He was not much trusted in the Rebellion, and I believe has been faithful.

“Francis Higgins, proprietor of the ‘Freeman’s Journal,’ was the person who procured for me all the intelligence respecting Lord Edward Fitzgerald, and got —— to set him, and has given me much information . . . . . 300

“M’Guichen, who is now in Belfast, ought to have . . . . . 150

“I wish a man of the name of Nicholson, whom I employ regularly, should have . . . . . 50

“Darragh ought to have for himself and wife, at least . . . . . 200

“(At first written 300*l*.)

“He might be mentioned in the Loyalist Bill.

———  
£1000

“Swan ——

“Sirr ——

“I think it might be right to get rid of many of our little pensioners, and Major Sirr’s gang, by sums of money instead of pensions. Marsden will be kind enough to confer with Sirr upon the several cases, and see which can be got rid of by a sum of money, which require stipends.

“Mr. Wilson and others recommend that Coleman should get office or pension. He lost his property, his house, &c., being burnt down by the Rebels.

“Pollock’s services ought to be thought of. He managed Mac—— and M’Guichen, and did much. He received the place of Clerk of the Crown and Peace, and he has the fairest right to indemnification.



" Samuel Turner . . . . .	£300
Francis Grenville Tracy . . . . .	300
Leonard M'Aually . . . . .	300
John Guichen . . . . .	150
Mr. and Mrs. Daragh . . . . .	200
Edward Nicholson . . . . .	50
(James) Gray . . . . .	50
Mrs. (Mary) Eldow . . . . .	30
(Richard) Harpur . . . . .	50
(Richard) Callaghan and (Ann) wife . . . . .	40
	<hr/>
	£1470
(Rev.) Gilmer . . . . .	30

"These sums were given by a warrant dated December 20, 1800, but the names were kept secret—the payments being confidentially made by the Under-Secretary. None of the recipients are now living."—Vol. iii., pp. 320-21.

The "Mac——," of this memorandum, as is plain from the list which follows, was the well known popular barrister Leonard Mac Nally, "who was regularly employed by the rebels, and much in their confidence." Dr. Madden in a special appendix (ii. 567) on the subject, had fully established the treachery of this base man; but none of the documents which had come under Dr. Madden's notice, actually contained Mac Nally's name.

No wonder that in the midst of such scenes Lord Cornwallis wrote: "The political jobbing of this country gets the better of me: it has ever been the wish of my life to avoid all this dirty business, and I am now involved in it beyond all bearing, and am consequently more wretched than ever. I trust that I shall live to get out of this most cursed of all situations, and most repugnant to my feelings. *How I long to kick those whom my public duty obliges me to court!* If I did not hope to get out of this country, I should most earnestly pray for immediate death. No man, I am sure, ever experienced a more wretched existence; and after all I doubt whether it is possible to save the country.

"The leaders of the Opposition, who know and eagerly pursue their own little dirty interest, although they are so blind as not to see that they must be overwhelmed in the general wreck, have art enough to sow these wicked sentiments into the members, and in the hopes of gett

at a distant period, they will hazard as many thousands which they at present possess.”

No wonder that we find him again declaring, “My occupation is now of the most unpleasant nature, negotiating and jobbing with the most corrupt people under heaven. I despise and hate myself every hour for engaging in such dirty work, and am supported only by the reflection that without an Union the British Empire must be dissolved. When it is impossible to gratify the unreasonable demands of our politicians, I often think of two lines of Swift, speaking of the Lord-Lieutenant and the system of corruption—

“ ‘ And then at Belzebub’s great hall,  
Complains his budget is too small.’ ”

A curious characteristic of the time is, that in this strange contest the opposition encountered the government with their own weapons. They too, were prepared to compete with ministers and even to outbid them in the vote-market. Lord Castlereagh informs the Duke of Portland (Jan. 20th, 1800) that “a very considerable sum has been subscribed, as it is professed, for the purpose of buying seats to resist the Union. If I can believe a member of Parliament who has now a seat vacant, 4000*l.* was offered him for the return in Mr. Curran’s favour. Two lawyers, of very dubious principles, Mr. Burrows and Mr. Goold, have been returned for two seats which we had reason to count upon.”

And again, in February 7th, 1800, he added,

“Colonel Bagwell’s desertion was altogether unexpected; he had engaged in the strongest manner to give the measure his unqualified support, and the objects he solicited were promised. His change of conduct is attributed partly to fear and partly to expectations given him by the leaders of Opposition in the event of their influence being established. Sir R. Butler, Mahon, and Fetherstone, were taken off by county cabals during the recess, and Whaley absolutely bought by the Opposition stock-purse. He received, I understand, 2000*l.* down, and is to receive as much more after the service is performed.

“We have undoubted proofs, though not such as we can disclose, that they are *enabled to offer as high as 5000*l.* for an individual vote*, and I lament to state that there are individuals remaining amongst us that are likely to yield to this temptation. A not less formidable principle we have to contend against is the effect produced by their system of intimidation on the minds of our timid and lukewarm friends. The Opposition have shown their determination to rouse

the disaffection of the country, and to hunt the people and the Government, and have not confined their efforts to the people alone ; both Yeomanry and Militia are held forth to shake the constancy of our friends.”—Vol. iii., p. 182.

In truth the whole affair of parliamentary influence and parliamentary votes would seem to have been regarded merely in the light of a question of pounds, shillings and pence. One member, the celebrated “Dick Martin,” actually put in a claim of £2000. to the Compensation Committee, on the ground that he had paid £4000. for his seat ; and that since instead of eight, he had only held it four years in consequence of the act of union, he was entitled to half the purchase money restored !

We would gladly have spared our readers this melancholy and disgraceful picture, but it is right that these truths of history should be known. Nor, with all their professions of disgust and loathing, can we hold Lord Cornwallis, and still more Lord Castlereagh, free from the shame of this flagitious profligacy. They stand condemned by the homely adage which places the receiver and thief in the same disreputable category. It is impossible to deny the great talents, and in many respects the upright ultimate intentions of both, especially of the former ; but, even by their own avowals, they stooped, on some occasions in opposition to their better judgment, to truckle to the fierce and bloody passions of the party whose ferocity and blood-thirstiness they secretly condemned, and they did not hesitate to indulge and to profit by the mercenary spirit of those whose baseness and corruption they professed to loathe.

There is one point of the negotiations regarding the Union into which we proposed to enter, but which it would be impossible to discuss satisfactorily within our present limits—the question of the Catholic claims. Perhaps we may find another opportunity of returning to this part of the subject. Nothing could be more precise and explicit than the declarations of Lord Cornwallis of the necessity, as well as the expediency and policy of concession ; and the publication of these papers establishes even more clearly than before the cruelty and treachery, as well as injustice, of the conduct pursued towards them by the English Cabinet, when the Rebellion having been suppressed, and the project of Union accomplished, they could afford to disregard the hostility of the Irish people, and to set their feelings at defiance.

ART. VII.—*Italy*—Remarks made in several visits, from the year 1816 to 1854. By the Right Hon. Lord Broughton, G. C. B. 2 vols. London: Murray, 1859.

“IT is a pretty poem,” said “Slashing Bentley” to the translator of the Iliad, when the latter spoke of the translation as his *Homer*: “It is a pretty poem, Mr. Pope, but you must not call it Homer.” In our day we have Mr. Whiteside’s Italy, Mr. Dickens’ Italy, Lord Broughton’s Italy, and other Italies too numerous to mention; but of Lord Broughton’s alone it can be said, that it is “a pretty book;” while, at the same time, we are bound to add, that his Lordship would do wrong to call it “Italy.” His volumes differ from those of Mr. Whiteside and Mr. Dickens, in the essential particular of having been written by a man of letters, and by one who knew a good deal—something, at all events, about the subject in hand. His mind is better stored, even if his judgment be not better balanced than that of travelling Englishmen in general. That same is a gain. The rumble and shriek of Whiteside, and the dimpling self-complacency of Dickens, the one so hollow, the other so shallow, are about equally wearisome. Lord Broughton, on the other hand, whatever else may be said of him, does rarely tire you. He now and then plays in an odd way of his own with facts strangely jumbled, more strangely assorted, and turning up, you know not how; but they are facts all the while, and are so far worth knowing. If some of them trip you occasionally, it is only by reason of their disorder, and as they are not very hard in themselves you escape without much hurt. At times, however, it must be admitted, Lord Broughton writes things which are not facts, but without ceasing to amuse, unless when he borders upon ill nature: and at other times, as happens with the best of us, he gets a solid fact by the wrong end, and hits you nothing the less hard on that account. Lord Broughton would not be an Englishman did he fail to speak confidently of most things which he does not understand in foreign countries; he would probably lose caste altogether if he did not express a proper contempt for their institutions, and for their religion; but he should have sunk Mr. Hobhouse completely in Lord Broughton, had he

forborne to sneer at sacred things and places. Accordingly, Lord Broughton has done everything in that behalf which it is the part of a good Englishman to do: seeing, however, that he is not an atom worse than his neighbours in that respect, and all to nothing more agreeable than any of them, we shall have a glance at his Italy.

The two volumes are composed, as the author informs us, of the notes to the fourth canto of *Childe Harold*, with which every reader of that book is familiar, and of materials which, though they had been intended for the notes at the outset, outgrew the dimensions of notes, and were published by Mr. Hobhouse in a separate volume. All those Lord Broughton has worked up into his present book, with the slightest possible alteration; connecting by an occasional narrative the otherwise detached observations which make up the volumes. The narrative portion is undoubtedly interesting, although the glimpses it gives of the distinguished people, into contact with whom the author was thrown during his travels, are very short. Byron, Shelley, Madame de Stael, and Schlegel, are disposed of in the first chapter, but a tribute is afterwards paid to Madame de Stael, to which the author refers in that same chapter, and which is, therefore, what a lawyer would call, incorporated with it by reference. Lord Broughton has a singular habit; we do not know whether it is an affectation, of translating by "Mr." the corresponding term in foreign languages;—a peculiarity which, if we are not mistaken, Macaulay notices in Lord Mahon's *History of England*, where the complimentary title of "Abbé" is rendered by "Abbot." Thus we find Lord Broughton writing of *Mr.* Schlegel and *Mr.* de Bonstetten. As to Mr. Schlegel, it strikes us you might with almost equal propriety speak of Mr. Virgil, or of Mr. Shakspeare. After glory and time have both given their consecration to a name, it is stripped of all conventional frippery, as sufficing for its own adornment. Lord Broughton's travels take him along the identical ground that is overrun by hundreds, not to say thousands, of our countrymen every year, so that he has acted wisely in giving us very little about his travels as such. The most animated description of Italian scenery would provoke a not much more animated interest than we feel in Murray's *Handbook*; and we think the public ought to feel rather indebted to Lord Broughton for not having filled his book with word-painting, as the minute, and (truth to say) often

wearisome descriptions in the present taste are called. The most elaborate passages, such as the apology for Boccacio, and the chapters upon Dante, Tasso, Petrarch, and Machiavelli, are nearly reprints from the notes to Childe Harold.

The author has cancelled or altered very little of his remarks upon the political state of Italy, and just observes from time to time that such a passage was written in such a year, and that it applies equally well to the circumstances of Italy at the present day ; a way of making up a book upon Italy which has its obvious convenience. However, it is chiefly when you come to the government and religion of Italy that Lord Broughton shows ill temper, or spleen. Religion has always presented, and must always present, an unfortunate facility for jesting and sneers. Nothing can be so easily parodied as the text of Scripture, or will lend itself so readily to profane wit. As to miracles, they are also prime game, for they may be made to look equally comical, whether authenticated or not : and it would be almost a greater miracle than any of those about which Lord Broughton is facetious, were he to resist the temptation of making fun with such materials to his hand. Quite apart from his Protestantism which, to do Lord Broughton justice, does not show itself anywhere very markedly as such ; his remarks are in disparagement, unintentional we have no doubt, of religion in general ; and he appears to take the very worst characters in Italian or French history, under a very charitable patronage. We recollect to have heard or read somewhere that Don Juan is a poem of highly moral and elevating character ; and in like manner Lord Broughton makes a very earnest defence of the Decameron, and if he does not absolutely adopt the political system of Machiavelli, he evidently believes there is no great harm and much good in it. He deals almost in the same way with Voltaire, and it is perfectly evident that his charity thinketh no evil of any kind of writing that is not dull.

Lord Broughton wrote originally at a time when cant was just as prevalent as it is at present, but when statistics were much less cultivated. He belonged to that old radical party of which he himself, Lord Byron, and the Hunts were the leaders. No doubt they effected great good in their time, and we owe them thanks for many reforms, but it is not to be disputed that Protestants as



they were, Tom Paine was perhaps of greater authority with them than the Bible, and that in their comprehensive dislike of priestcraft they made no great distinction between Protestant and Popish parsons. Some of the old radicals were men of business, direct and practical; others, like Lord Byron, were men of genius and enthusiasm; while others, like Hobhouse, were men of taste and refinement, but without any great depth of thought, feeling, or information. Much of Lord Broughton's bitterness against the Church and government of Rome may be accounted for in this way. A loiterer along the roads of literature, without definite aim or purpose, picking up whatever he found upon the surface, but not a delver or explorer; a curious collector of shining pebbles, not a geologist with scientific specimens; he had no real materials wherewith to correct his early prejudices, which, as they were connected much more with the taste than with the judgment, proved, as they always do under like circumstances, more difficult to get rid of. It is easy to clear a garden when the weeds are tall, and of moderately quick growth; but when they propagate from a shallow root, and run along the ground, they are the despair of gardeners. A serious and systematic collector of statistics will, by the bare necessity of the thing, cure himself of many prejudices, no matter how strong; but when the taste only is concerned prejudice becomes invincible. Now, Lord Broughton's taste for the works of ancient art is one in which we completely sympathize; but that he should expect all people at all times, since the decay of Rome began, to have exactly the same kind of taste, is somewhat unreasonable, and an expectation that would hardly exist in the mind of a philosophical historian. Lord Broughton would seem to wish that a church had never been built in Rome, rather than that a single column should have been borrowed from an old temple already in ruin for the adornment of a Christian Church. Indeed he says in terms that wherever you see a church in Rome you have before you a monument of the destruction of some ancient building. In the course of his inquiry into the causes of the destruction of Roman monuments, he manages to connect the Popes with it in some way or another, from the time of Attila; and actually makes them responsible for everything that was done by their rebellious subjects, as well as for what might, with more or less fairness, be charged upon themselves. What strikes us as pecu-



liarly disingenuous in this proceeding, is, that the reader is led to believe that the disorganization prevalent in the Roman territory was owing to some inherent vice in the Roman government; whereas Lord Broughton cannot but have known that at the period to which he refers every kingdom in Europe was torn asunder by the great and little wars in its great and little feudatories. Even where tradition, which in matters of this kind is rarely astray, has ascribed to various of the Popes a certain protecting influence over the public monuments, Lord Broughton delights to pick holes in the tradition, and show that each of the Popes was nothing better than an Attila, or Tottila in his generation, and that whether in Rome or in Avignon, the Pope was the destroying angel of Roman antiquity. Lord Broughton appears to have taken a lesson from little Flanagan, in the "Good-Natured Man." "D——n the French and all that belongs to them," exclaims the patriotic bailiff. "What makes the bread rising? The parlevous that devour us.—What makes the mutton five-pence a pound? The parlevous that eat it up.—What makes the beer three-pence halfpenny a pot?" Or if we come nearer down to Lord Broughton's own contemporaries, the constancy and relish of his attacks upon the Papacy, and indeed upon Christianity in general, remind us of Lord Byron's old enemy, hoarse Fitzgerald, who is so cleverly caricatured in the "Rejected Addresses."

"Who burnt (confound his soul) the houses twain  
Of Covent garden and of Drury lane?  
Who while the British squadron lay off Cork  
(God bless the Regent and the Duke of York)  
With a foul earthquake ravaged the Carracas  
And raised the price of dry goods and tobaccos?  
Who makes the quartern loaf and Luddites rise?  
Who fills the butcher's shops with large blue flies?  
Who thought in flames St. James's court to pinch?  
Who burnt the wardrobe of poor Lady Finch?  
Why he who forging for this isle a yoke  
Reminds me of a line I lately spoke  
The tree of freedom is the British Oak."

Before however, we come to the serious portion of Lord Broughton's *Italy*, suppose we look at a little that is simply entertaining, and gives no scope for the author's pet antipathies—or indeed for his peculiar predilections, which

are almost as doubtful in their character. His description of the performance of the famous Italian improvisatore Sgricci is just such a description as you would like to hear, and may have heard from a friend, in what Dickens calls the cosy hour after dinner, and which, when it is not stretched to a cosy four or five hours, is one of the most admirable of British institutions. The description is interesting because it is natural and truthful, nor can we dissent from the author's views as to the paltry though surprising character of those performances, and their injurious effect upon the beautiful language whose musical structure lends itself, like all good things of this world, to abuse.

“Whilst we were in Milan 1816, the celebrated Sgricci the improvisatore made his appearance before the critical audience of Lombardy. His visit had been announced, and his praises loudly trumpeted by the Bologna Gazette, where it was proclaimed that he had refused the crown of Corinna as premature, but would accept ‘the well-deserved tribute when he had obtained the suffrages of all Italy.’ The novelty and the challenge filled the Scala theatre. We were present in Mr. De Breme’s box, where an amusing running commentary kept us awake during a performance on the whole rather dull, and broken by intervals more frequent and long than usual on the stage. It opened with music, and whilst the orchestra were playing, some of the audience handed in folded papers, inscribed with subjects for the poet’s ingenuity, to a person who shortly retired behind the scenes. The stage was then for a time empty, and the music ceased. The audience became impatient and so eager for the show, that when a man came forward and appeared with much ceremony carrying a vase in his hand, they took him for the poet, and applauded loudly. He was a servant who placing the vase on the table withdrew. Then entered a man in mourning and a boy who took up their positions solemnly at the opposite ends of the table. The first trial of skill was to be in ‘versi Sciolti,’ and the man in black read aloud the verses inscribed on each paper, and then folding up the papers threw them into the vase. The audience manifested their opinion of the papers sometimes by applause, sometimes by loud laughter; but it seemed to us that those subjects, most of them classical or historical, were understood by a much greater number of persons than might be expected to be found in a very large well filled theatre, promiscuously filled by an audience paying only fifteen-pence a-head. At last all the papers being folded up, and thrown into the vase, which was then sufficiently shaken to secure fair play, the boy with averted head lifted up his hand, as was the custom at our celebrated lotteries, and dipping it into the vase drew out a paper. The man opening the paper read aloud the proposed theme, ‘the

taking of Algiers'—a happy if not a suspicious chance selection, the place having been taken a few months before. The attendants now withdrew and the table was removed. The anxiety for the commencement of the performance became intense, and broke out into loud clapping of hands. At last SGRICCI appeared and was received with shouts of applause. He was fantastically dressed, His long black hair flowed wildly over his face and shoulders, and his neck was bare. He wore yellow Turkish slippers. He began at once to pour forth his unpremeditated verse, invoking, as he said, not the Greek muse, but the muse of Mount Libanus. The classical Deities were however very soon put in requisition, and we heard a good deal about Amphitrite and Aurora. The poem ended with a speech from the liberated slaves, and this was the only circumstance that distinguished the taking of Algiers from any other successful seige. The recitation lasted nearly a quarter of an hour, and the Poet did not hesitate for a single moment. As he withdrew, much applause was heard. The attendants with the table and vase again make their appearance and the same ceremonies were observed as before. The subject chosen for the 'terze rime' was the Artemisia at the tomb of Mausolus. Sgricci again appeared. His action was more vehement than before and his poetry not less fluent; but we heard very many rhymes in 'ente' and 'etto.' A little child of the Queen of Caria added pathos to the distress of her majesty, and Aurora was again introduced to console the weeping widow, but nothing was said about the ashes of Mausolus, nor of the tomb giving a name to all superb sepulchres. The performance continued for about the same time as when attacking Algiers, but he was less applauded than for the siege. He withdrew and the assistants came forward and read the subjects proposed for the great trial, the touchstone of genius, the tragedy. The themes sounded like ancient bills of mortality. Deaths of kings, queens, heroes, patriots, and poets, quickly succeeded each other. None found favour with the audience, but the Apotheosis of Victor Alfieri was received with thunders of applause. It did not however turn up, and the paper chosen by the Lottery boy was the 'death of Socrates.' There was a long pause, after which Sgricci came upon the stage, and hoped another lot might be drawn, as the 'benissimo pubblico' would probably think with him, that the death of Socrates was not 'tragediabile.' A tragedy has, however, been written on this subject. The audience consented to have another lot drawn, and the boy pulled out 'the death of Montezuma.' Sgricci reappeared, and saying that he could not reconcile the adventures of Montezuma with the manners of Italy, protested, that of the two, he preferred Socrates. On this, the audience became very noisy; some called out for Socrates, others for Montezuma, and after a good deal of clamour, the lots were a third time tried, and 'Eteocles and Polynices' drawn. Even this subject 'tragediabile' enough, seemed to disconcert the poet, who continued so long silent, that

the audience began to hoot and whistle, and again called for Socrates and Montezuma. At last Sgricci was inspired; he told us that his scene was in the palace of Thebes. His personages, Eteocles, Polynices, Jocasta, Theresias, and Manto, with a chorus of Theban women. Tossing up his head and hands, he then began versifying in one character, and when he changed to another, he walked to the side of the stage. He gave a tolerable copy of the description in *Æschylus* of the chiefs before Thebes, and was much impassioned in the part of Jocasta; but the audience gave evident signs of impatience, and before the tragedy was concluded, had partially left the house. Though at the end of the fifty minutes, during which this surprising exhibition lasted, there was some applause, the tragedy was considered a failure, and the whole performance did not satisfy the Milanese. One friend of the Romantic School, spoke of it with the utmost contempt, but Monti and Perticari patronised Sgricci, and during his performance were behind the scenes to inspect the papers and take care that no offensive subjects were introduced amongst them. What *La Bendetina*, or the great Roman Improvisatore *Jiannui*, may have been able to perform I know not, except by the printed poems of the latter, which, if they were really spoken without premeditation, exhibit talents far superior to those of Sgricci, when we heard him. A judgment of his power, in this way, may be formed by those who read his tragedy which he afterwards published in 1827, I believe. He probably selected for the press that which he thought the best of his spoken dramas.

"I think I discover, in a charming work on Italy, Forsyth, an inclination to admire those performances; and he goes so far as to discover signs of improvisation in *Homer himself*, or rather *itself*, from the frequent recurrence of the same verses. That the Homeric verses were sung by the Rhapsodists ages before they were committed to writing, no one, I believe, denies; but there is a wide difference between unwritten, and unpremeditated poetry, and it is hard to believe that any number of the Homeric, or any other Greek verses, such as we now read them, were composed and spoken at the same moment. The same may, I presume, be said of all poetry of the highest class, and whatever may be the comparative merit of the Italian Improvisatori, from *Serafino d'Acquila* down to *Signor Sgricci*, I never heard but one opinion from men of real judgment, with regard to this capacity. They all lamented that encouragement should be given to mediocrity in that department of literature, in which, by common consent, mediocrity is not to be borne. The marketplace is the proper stage, and the guitar the proper accompaniment for such effusions, and even the drawing-room may be enlivened by extemporary trifles in verse; but the tragic muse, like the heroines of romance, requires a long and assiduous courtship, and the stage is degraded by exhibitions resembling the real master-pieces of dramatic poetry, in nothing but their inferior properties, the metre, and the rhyme.

"A second exhibition of Sgricci several years afterwards, when he gave his forty-third extemporary tragedy at Venice, did not alter my opinion, either as to the poet or his performance. He gave us the Earl of Essex, whom he called 'Odoardo,' and as he pretended he knew nothing of the story, it was told to him somewhat incorrectly aloud by a person from one of the boxes of the theatre. The Queen Elizabeth of Sgricci, made war upon France. The tragedy lasted two hours. When I went, half the audience had already fled."—  
Vol. I. pp. 43-9.

Lord Broughton has an interesting chapter specially entitled, on the destruction of the monuments of Roman antiquity, and on the causes which led to it; but we find observations upon the same subject, in connection with several of the great Roman structures which are noticed by the author singly. Where the matter is not such as to attract his lordship's stronger prejudices, and where the reader feels that he may be trusted, the learning of those passages will be found curious and not unprofitable. When the Popes come into action the case is quite altered, and they are made responsible for every stone that is chipped in their city. Whatever they do or forbear to do, in peace or at war, at Rome or in Avignon, Lord Broughton would have it understood that they were the real destroyers of Rome. It is easy to make a respectable induction by giving one instance or so of dilapidation, out of every third or fourth reign, without saying whether the dilapidation was not a mercy to the citizens and perhaps to the monument itself; and no doubt it would have been a gratification to Lord Broughton to dismount Attila or Tottila from his pedestal, and to elevate Gregory the Great thereto. However the thing has proved such a failure in other hands, and the fact has been so long established, that Gregory was the reverse of what he had been represented to be by John of Salisbury, that Lord Broughton admits, with tolerably good grace, the claim of St. Gregory to have his character set right. In this particular instance it would be too compromising for Lord Broughton's own character that he should include Gregory the Great amongst the demolishers of Roman monuments. It is likely, all the while, that had not others effectually vindicated the reputation of St. Gregory, Lord Broughton would have classed him amongst the Vandals with as little hesitation as he has shown in the case of any other Pontiff. Six hundred years after his death St.

Gregory was accused for the first time of having forbidden the study of mathematics, set fire to the Palatine Library out of a particular grudge to Livy, and broken down the monuments of pagan antiquity, lest the attention of travellers should be diverted from objects of religious interest to the study of antiquity. John of Salisbury, the author of that most unauthenticated report, gave it currency, nevertheless, with half the world, until some of the sturdiest enemies of Christianity, vexed with the nonsense of the thing, discredited the fable so far that even Lord Broughton could not turn it to account. Still the originator of the calumny professes to give it upon no higher authority than that of a nameless tradition, "*traditur a majoribus*:" whereas Lord Broughton, by putting forward his facts nakedly, and often without note or reference, pledges his own name to these otherwise uncertified allegations. In course of time he too may be quoted as an authority for what is found in his book, and he may be destined to give some trouble to honest and laborious men even of his own views, who would like him to come right, but cannot make him do so. It would be scarcely worth while to repeat the process of refuting stories that turn up again positively the fresher and stronger for being refuted. We might refer not to any particular number of this journal, but to the Dublin Review *passim* for illustrations of what we have said. The only further thing necessary to be observed upon this matter is, that Lord Broughton has brought as many unauthenticated allegations in proof of his favourite theory, whether from books, from hearsay, or from imagination, as could be crowded within the compass which he has allowed himself. We do not mean that this applies strictly to all that he has said with reference to the destruction of Roman monuments, and to the use which may have been made of the remnants of antiquity by the Roman Pontiffs, whether for church building or for secular purposes. Undoubtedly the materials of the old buildings were often applied by the Popes in the way stated, but we have no reason to believe either that the buildings from which the materials had been so taken were not unsightly and perhaps dangerous ruins, or that the demolition was not unavoidable upon very different grounds. Nay, it is quite plain that the existence of those ruins in their integrity, if we may so speak, was not compatible with the existence of a city in the same place; and it is equally plain that for a great

many purposes the existence and growth of the new city, to say nothing of the dominion of the Popes, must have contributed to the preservation of many of the monuments as well as to the destruction of some.

The portions of the entire book which might possess most interest for many readers are those referring to Italian literature, with which Lord Broughton appears to be more than moderately well versed, although it is not with him as with Roscoe, a ruling passion or taste. These passages are, however, as we have already remarked, almost a close reprint from the notes to the fourth Canto of *Childe Harold*, and will therefore be passed over by the generality of readers on their way to something with which they are comparatively unfamiliar. No abuse of the Roman government can be unfamiliar to our British subject at the present day. We believe Mr. Spooner himself must be surfeited with the affluence of information he gets upon this point from newspapers, pamphlets, and lectures.

There is, in the second of Lord Broughton's volumes, a passage on the government of Rome well worth preserving, although by no means unique, for it shows how a man of learning will run shallow, and a man of taste become vulgar, when prejudice unsettles his judgment and disorders his imagination.

"The Papal government is the jest and the riddle but is certainly not the glory of the world. The existence of such a system even in a country where the welfare of the community seems never to have been considered, is a standing miracle. From the foot of the Alps to the extremities of Calabria, despotism has assumed various shapes, more or less offensive in the eyes of those accustomed to the enjoyment of liberal institutions. But there is something absurd and fantastic in the forms and in the very external appearances of the Papal sovereignty, which is not to be met with beyond the Pontifical state, and the full ridicule of which can only be felt at Rome. A priest may become a throne no less than a woman, and Sixtus Quintus, in his way, was a monarch no less respectable at home and formidable abroad than our own Elizabeth. A perpetual succession of women, however, would not be tolerated by any nation; and since the Popes have lost that influence in other countries which gave dignity and importance to their character, it seems unaccountable that some of the fairest portions of the Italian peninsula should be subject to the dominion of a priest chosen by priests, administering his power by priests, and coming



into contact with his subjects only when in the performance of his clerical functions.

“Even when at the height of their power the Popes, with few exceptions, maintained but a questionable authority at Rome, either as men or as sovereigns. The Romans fond, as has been said before, of their religion, have seldom been distinguished for attachment to the head of their Church and state; and although there was a generous sympathy for the sufferings of the two last who bore the name of Pius, and a very natural aversion for foreign dominion, yet the salutary changes introduced by the French, and the present insignificance of the Popedom in the eyes of Europe, must, it may be thought, have fully awakened the Romans to the humiliation as well as the misfortune of being subject to an authority different in its very nature and outward show from that of any portion of the civilized world.

“If under this theocracy there were a tolerably impartial administration of justice, if the lives of persons and the properties of citizens were secured by any contrivance, it would be no great hardship to submit to the anomaly of receiving laws from the altar instead of from the throne. But the reverse is notoriously the case, and there is scarcely a single principle of wise regulation acted upon or recognized in the Papal States.

“Leo XII. visited hospitals and convents, and all ecclesiastical establishments at any and all hours of night and day. He punished a baker who supplied bad bread to the poor of the Spirito Santo. This personal superintendence of the monarch was extolled to the skies by some worthy Roman, who did not see in such conduct an unequivocal sign of bad government, and who thought it quite a proof of generosity that the same Pontiff should send a present of 200 crowns to the judge who presided at the condemnation of the Carbonari.

“The first principles of criminal jurisprudence seem as much forgotten or unknown as if the French code had never been the law of the land; a secret process—a trial by one judge and a sentence by another—protracted imprisonment—disproportioned judgments—deferred and disgusting punishments, all tend to defeat the ends of justice, and to create a sympathy with the culprit rather than a reverence for the law. Useless rigour or pernicious lenity,—at one time a whole town razed to the ground for having sheltered robbers—at another a gang of the same banditti conciliated by a treaty with the Cardinal Secretary of State in person—suspected Carbonari hanged at Ravenna—convicted murderers pardoned at Rome—such were the consequences of the restoration. But this is not all. The revenue of the state, raised by a thousand independent, conflicting, and almost arbitrary authorities, impoverishes and vexes the people more than it enriches the government. All taxation, all commercial regulation, seems to be the effort of some momentary whim or caprice, instead of being such as can be anti-

culated by prudence or made tolerable by skill and industry. Not long ago, (in the reign of Leo XII.) an ingenious attempt was made to improve upon the prohibitory system by prohibiting the importation of certain articles of the first necessity, which no home manufacture could possibly produce,—a second edict exposed and remedied the blunder. The lottery is a fruitful source of revenue. The Roman and Tuscan governments entered into partnership for this pious purpose: the lowest stake was three baiocchi and a half; and as if to make some amends for the immorality, a 'povera zitella' has sometimes a dower given to her of 200 or 300 crowns. Efforts have been made to reform the judicial character, by adding to the salaries of the lawyers on the bench. The usual pay of the judges was about eighteen crowns a month; it was made two hundred '*senza le incerte*,' that is to say, with no allowance of those bribes and presents which was formerly not only connived at, but openly permitted to be given by the suitors in the courts.'—Vol. ii., pp. 234-7.

With a passage like this, serious criticism is out of the question. Supposing it to have had any meaning thirty years ago, the author has taken no pains to see that it should have some application to-day. He has indeed the candour to admit that the passage was written in 1828, but he adds that he saw very little to alter in 1854, except that there was more general discontent apparent in the latter than in the former year. It is quite possible that Lord Broughton saw little to alter in his judgment of the Roman Government; but the man who wishes to say he cannot see the sun, has only need to shut his eyes. Lord Broughton has only to shut out all existing facts and statistics from his view, and if he were right in 1828, he will of course be right in 1859. Lord Broughton has done just what we have said; he has done what his countrymen are in the habit of doing every day, he has done no more than the bulk of them, but we should have expected him to do better. In truth this condemnation of the Roman Government, whether as applied to the government of 1828, or that of 1859, is made up of statements either simply false, or very debateable at best. To put the matter upon the lowest ground, suppose we turn some of the boldest of Lord Broughton's propositions into mere questions; and to begin, let us ask in his own words: *Is the Papal Government the jest and riddle of the world?* Taking it to be so, St. Paul said very nearly the same thing of the Cross of Christ, and it was nothing the worse

for that, and not the less victorious. But is the Papal Government such a jest and such a riddle? Napoleon found it no jest, and he read the riddle cunningly enough, when he said you should deal with the Pope as if he had a hundred thousand men in the field. Austria certainly did not, and does not regard it as a jest; witness the Concordat, about which, thank heaven, we have heard so little for some months. England, if at all disposed to treat it as a joke, does seem to consider it an exceedingly practical joke, when played off upon herself, as in the case of the ecclesiastical titles for instance, when she went off into fits, that made *her* the jest and riddle of the world. Russia, and her terrestrial deity, Nicholas I., were exceedingly serious when brought face to face with Gregory XVI. Prussia was in no jesting mood during the progress, or at the close of the Cologne Controversy; and the Grand Duchy of Baden, a few years ago, found it ill jesting with Herman Von Vicari. Is it a jest to the France of to-day, to Spain, to Portugal, to America? and if not, those nations, great and small, form a rather considerable portion, even of Lord Broughton's world. Now let us ask again, in the author's own words, whether the Popes *have* lost that influence in other countries which gave dignity and importance to their character? and is not the question the same in substance with the last? Observe, Lord Broughton does not make any qualification or reservation, he does not say that the influence of the Popes has gone down greatly, wholly, or considerably, but that it has been lost absolutely. Is that so? Let us take another statement. *Does* the Pope administer his power by priests, and does he come into contact with his subjects only when in the performance of his clerical duties? The total number of clergymen, exclusive of chaplains, employed in the administration of the Roman States, in the year 1856, was 110; the number of laymen, 6,836. The salaries of all the clergymen, including 179 chaplains, of prisons and hospitals, amounted to 124,256 dollars; the salaries of lay officials to 1,491,389 dollars. Lord Broughton states avowedly that the Pope administers his power, meaning *all* his power, by priests, meaning by *none but priests*, and with these statistics before us, which we are bound in charity to assume Lord Broughton had not before him, we may fairly ask, is that true? We have then to ask, are the lives, the persons, and the property of

the Roman citizens, notoriously secured by no contrivance, and is there scarcely a single principle of wise regulation acted upon or recognized in the Papal States? Is this true in substance and in fact? or is it true that the tenant farmer in Rome has better protection for his property than the tenant farmer in Ireland, or even in England? Is it true that in the Roman States every man, how low, or how high soever his condition, can sit under his own vine and eat his own fruit without challenge or interruption? Is it true that the infamy of British law, in the case of *O'Fay v. Burke*, has never been paralleled in Rome or elsewhere? Is it true life is as insecure in *Lincoln's-Inn-fields* or even in *Holborn*, after nightfall, as on the least secure of the Italian highways? Is it true that the principle, if not the full application of free trade, was recognized and practised in Rome before it was recognized and practised in England? Passing over what may be regarded as mere scandal, perfectly unauthorized and unauthenticated, and referring only to such of Lord Broughton's statements as have regard to principles of government, and the condition of the country, we are astonished to find him charging it as a crime upon the Roman administration of the law, that one judge tries the prisoner, and another passes sentence, when exactly the same thing takes place in our own jurisprudence, where one tribunal is the judge of fact, and another is the judge of the law, and passes sentence accordingly. Many of Lord Broughton's statements are such that one positively grudges the trouble of verifying or refuting them. Where you find a man speaking upon some matters, without any knowledge of facts, or with something like a wilful distortion of them, you are quite at liberty to presume against his fairness upon other matters. But once again, referring to a matter of common notoriety, is it true *now*, if it was *ever* true, that the revenue of the Roman States, raised by a thousand independent, conflicting, and almost arbitrary authorities, impoverishes and ruins the people more than it enriches the government; or is it true that in 1826, two years before this libel was written for the first time, and when its original publication was almost more inexcusable than its present republication, Pope Leo XII. had actually reduced the taxes to a considerable extent, and *still maintained the income in excess of the expenditure*; and is it true that after the revolution of 1848, after a ruinous

issue of revolutionary paper, upon which Lord Broughton is quite competent to set a value, after the total disorganization of the finance, with a diminution of the customs amounting to more than a fourth of the entire, the Papal Government has, within seven years after its own restoration, restored the revenue too ; and from 2,943,589 dollars, to which it fell, in 1849, raised it to 5,346,039 in 1856, with scarce any additional taxation ? Is it true that at this moment, the Roman population is, relatively to its resources, not one-third as heavily taxed as the population of England, and that the expenses of administration are less heavy in the Roman State, with its three millions, than in the kingdoms of Wurtemberg or Greece, with not half the population ?

The next charge laid to the account of the Roman Government is, that having gone a step too far in the protective system, which is followed by nearly all Europe at the present day, it retraced its steps, and "in a second edict, exposed or remedied the blunder." We could understand a complaint, that feeling and knowing the blunder, this impracticable government persisted in it notwithstanding, but it is something new to blame prince or people for reforming vicious legislation. If it be wrong to do that, and to do it in the clumsiest way, our own is the guiltiest government on earth. Scarce a Session closes that we do not pass an act to amend an act, or to amend and explain an act, passed in the previous Session of Parliament, and entitled an act to amend another act passed in the Session before that again. And lastly, we have a further reform recorded against the Papal Government, and horror of horrors, a reform introduced without any compulsion or agitation whatever. The Judges, as was the case all over Europe, at no distant period, were in the habit, the allowed and recognised habit of receiving presents from the Suitors in their Courts, after the termination of the Suit, much as our own special juries are paid by the party in whose favour they have given a verdict. The Roman Government saw the impropriety of this course, and put an end to it summarily, and in compensation raised the salary of the judges from £72 a year to the (for Italy) very handsome amount of £480. Now it will be observed that Lord Broughton states the naked and odious fact of the Judges having received presents in money or otherwise, in a way that would lead one to believe the Roman Government

was the only one in Europe which tolerated such a practice, or in which such a practice could be tolerated, although the universality of the practice on the Continent ought to have been known to the author, or he should at least have made some inquiry into its existence elsewhere than in Rome. Charles Butler has a chapter upon the subject in his "*Reminiscences*," with reference to the practice in France, where, under the parliaments, it was not only customary to give presents to the judges; but the judicial office itself was purchased like a commission in our army, where by the way the existence of the system of purchase sufficiently proves that governments, considering themselves the most enlightened, may be, upon certain points, the most backward and stupid in the world.

Butler shows very plainly in the chapter alluded to that in France at all events, the practice to which Pope Leo put an end in Rome, was chargeable with indelicacy at most, but not with corruption. The moral height, however, from which Lord Broughton surveys the doings and misdeeds of the Roman Government, is too airy to admit of his discerning small objects such as these. His thoughts have nothing to rest on but the horizon. Then, too, it must be borne in mind, the public, in its present temper at least, does not require accuracy from any writer upon Italy. You must be abusive if you desire to be read. The King of Naples, the Emperor of Austria, and the Pope, have got a conventional character and dress in English popular literature, of which it would be hopeless to strip them. You might as well hope to put Hamlet's Soliloquy into the mouth of the Clown on boxing night, or to array Pantaloon in gown and bands, as to present Pope or Emperor to the British public in any dress not of British manufacture. To be sure there are some writers capable and well informed, as well as honest, who write for the few, and who, in distant times, perhaps may be read by the many; but until such good times come, crudities like those of Lord Broughton will be relished and praised, good sense and truth to the contrary notwithstanding.

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ART. VIII.—*Tradition et Raison*. Par Mgr. Parisis, Eveque D'Arras, de Boulogne et de S. Omer. Paris : Lecoffre et Cie. 1858.

AS the subject of the controversy which has elicited this brilliant pamphlet from the pen of the Bishop of Arras, has been rarely brought under the notice of the general reader in this country, we shall premise a brief statement of its import and bearing.

The question at issue, though not unconnected with Theology, is mainly of a philosophical character, and involves several interesting problems in psychology. Stated plainly it comes to this:—is man's intellectual nature capable of self-development, or is some extrinsic guidance, some *institutio aliena* absolutely required to call its latent powers into action? Suppose a child, cut off from all social intercourse since its birth, with its physical wants at the same time duly supplied, so that it grows up to healthy and vigorous manhood, without having ever had a single ray of intelligence coming to it from another soul bearing the image of God like itself; suppose the mind thus entirely thrown upon its own intrinsic resources, could it in this condition attain even the lowest degree of perfection worthy of a rational creature? Could it make such progress as to carry on a train of reasoning? Could it distinguish between good and evil, and appreciate the nature of moral responsibility? Could it form a distinct idea of its Creator, and of its own sublime destiny? or, on the contrary, should its higher powers remain forever dormant, and should it be restricted to mere perception and sensation, and those modes of exercise of the faculties which are in great measure common to us with the lower animals? Such is the question to the solution of which Mgr. Parisis addresses himself in the able and interesting work before us.

As a variety of other questions of an essentially different character and tendency, have been warmly discussed in France and Italy, under the same name as the present, it may be well before entering upon an analysis of Mgr. Parisis' profound and masterly argument, to place before the reader a very brief and rapid history of the chief phases of what has been called "Traditionalism."



The utter and inherent imbecility of Human Reason, its absolute unfitness to attain a sure knowledge of even the plainest and easiest truths, had never, as far as we are aware, been seriously maintained before the sixteenth century, except among professed sceptics. The early Fathers and Apologists of Christianity, indeed, sometimes dwell with marked emphasis upon the natural feebleness of the intellect, and denounce the philosophical speculations of their time as the offspring of heathen folly and pride. Thus, Hermias, in the *Irrisio Gentilium Philosophorum*, exposes with merciless ridicule the numberless inconsistencies and contradictions of the Greek Philosophers; St. Irenæus (*Adversus Hæreses*,) describes the extravagant tenets of the Gnostics as legitimately deduced from the principles of Pagan philosophy; Tertullian, (*contra Hermogenem*, cap. viii.) with characteristic acerbity signalises “philosophers as the Patriarchs of heresy;” and even Lactantius, the Christian Cicero, (*Divin. Institut.* lib. iv. et vii.) pours out a flood of eloquent invective for the purpose of lowering the arrogant pretensions of Reason, and awakening it to a wholesome sense of its infirmity. But the primitive Fathers, though justly anxious to abate the inordinate and fallacious claims of Reason, and to reduce every intellect into the captivity of the New Dispensation, were by no means disposed to make Pyrrhonism the high-road to faith. They were, on the contrary, one and all, free to admit the prerogatives of Reason, if it only confined itself to its proper sphere. It is unnecessary to recal the names of Origen, of St. Augustine, of St. Isidore, of Venerable Bede,—all distinguished themselves for the philosophic depth and subtlety that characterized many of their speculations. Several of the Fathers earnestly recommend the study of ancient philosophy, when pursued with due circumspection, and describe in glowing terms the advantage to Christianity which might be made to result from such pursuits. Thus St. Augustine,

“Doctrinæ omnes Gentilium non solum simulata et superstitiosa figmenta gravesque sarcinas supervacanei laboris habent, quæ unusquisque nostrum duce Christo de societate gentilium exiens debet abominari et vitare, sed etiam liberales disciplinas usu veritatis aptiores, et quædam morum præcepta utilissima continent, deque ipso Deo colendo nonnulla vera inveniuntur, apud eos, quod eorum tanquam aurum vel argentum, quod non ipsi instituerunt sed de quibusdam quasi metallis divinæ providentiæ, quæ ubique

infusa est, eruerunt et quo perverse atque injuriose ad obsequia dæmonum abutitur cum ab eorum misera societate sese animo separat, debet ab eis auferre Christianus ad usum justum prædicandi Evangelii."

In fact, not to multiply quotations,\* it is merely necessary on this point to refer to the testimony of Brucker, who is not at all anxious—as must be evident to any impartial student of his great work—to exaggerate the merits of the Fathers in favour of philosophy.

"Et hoc quidem argumentum est earum commentationum quas pro religione Christiana scripserunt doctores ecclesiæ meritissimi, Justinus, Tatianus, Athenagoras, Theophilus, Hermias, Clemens Alexandrinus, Hippolytus, Origenes, Eusebius et Græci alii: Tertullianus, Minucius Felix, Cyprianus, Arnobius, Lactantius, Julius Firmicus, Maternus, Ambrosius, Augustinus, alique Latini, ut deperditorum nomina taceamus. Quorum apologias legenti mire placebit acumen virorum doctorum, Græcos philosophos propriis telis agredientium, et non sine pudore confundentium."\*

The opinions held by the Doctors of the Church during the Middle Ages, did not tend to the disparagement of reason. On the contrary, it is not an unusual charge against the Schoolmen that they had an overweening confidence in the inherent power of the intellect, that they too much overlooked Sacred authority, and indulged to an extravagant degree in subtle refinements and elaborate ratiocination. Have we not heard that a senate of these same schoolmen gravely deliberated on the propriety of canonizing Aristotle? The story to be sure is an extremely ridiculous one, not unlike some of the clumsy fictions that garnish Dr. Robertson's Introduction to the History of Charles the Fifth; but it is at the same time an indication that, at least in the judgment of their enemies, the Schoolmen had not learned to stigmatize human reason as hopelessly imbecile.

But with the sixteenth century came a change. The Reformation was in truth, as has been so often, but not too often said, unlike any other heresy, any other revolution,—for more, far more than any other, it resembled the great apostacy of the fallen archangel. It was not a denial of a single dogma, but an open and direct rebellion against

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\* Brucker. Period 11. Lib. 1. Cap. 11. De Philos. Veterum Christianorum.

the supreme authority of God. It was an attempt to set the throne of the creature against that of the Creator,—to make the individual or private judgment outweigh His sovereign and eternal truth. Hence, in Christian countries, where Protestantism has to any considerable extent been propagated, it is always the forerunner, nay, the parent and nurse of religious indifference, if not of positive infidelity.

It is not strange, then, that men who are really convinced of the value of Divine Faith, who are really alive to the great truth of the Apostle, that “without faith it is impossible to please God,” or to escape an everlasting Future of Misery, should look with horror upon the spread of this Lutheran principle of private judgment, subversive as it is calculated to be from its nature, and as it is proved to be in its results, of all belief in Revelation. It is not strange that a sincere Christian should denounce and execrate such a principle. It is not strange that men of ardent and enthusiastic temperament, in their zeal to expose its falsehood, its danger, its thousand evil consequences, should be unconsciously carried beyond the limits of rigid doctrinal truth, even while observing all the forms of most dispassionate and philosophical controversy. We are not surprised when the spirit of social rebellion is let loose upon a country, effacing all its ancient landmarks and uprooting its time-honoured institutions, to observe even men of enlightened patriotism, men animated by a generous love of freedom, anxious that despotism itself should supersede and terminate the wild license of a mob. Still less should it be matter for wonder that the great religious rebellion of the sixteenth century, originating as it did in the principle of making each man’s private judgment paramount to the authority of God’s revealed Word, and thus aiming by a single blow at the entire overthrow of the Kingdom of Christ, should lead some few to deny the claims of human reason altogether, and attack its just and natural prerogatives.

It was in this spirit that Huet, the celebrated Bishop of Avranches, sought so to depreciate Reason in the *Alentance quæstiones de Concordia rationis et Fidei*—and in several of his writings, but more especially in a well known posthumous treatise entitled *De Imbecillitate Rationis Humanæ*. In these works it is openly maintained that the human intellect, if not strengthened by divine faith, is

absolutely incapable of arriving at a knowledge of the simplest truths, and that universal scepticism would be inevitable. The arguments advanced by him in support of this extraordinary thesis, are at least as old as the time of Sextus Empiricus. The mind, we are told, is indeed competent to act upon the material furnished by the senses; but how proverbially and avowedly fallacious is not the testimony of the senses? As in a poem, or in a well-wrought fiction, the characters are made to preserve a certain consistency throughout the piece, and each incident is made to follow the other with due regard to time, and place, and circumstance, though the ground-work of the whole is altogether shadowy and unsubstantial, the mere creation of the artist's fancy,—so reason works the material supplied to it with consummate skill, with a nice regard to the connexion between conclusion and premises; but whether this material itself be a reality, or only the dream of a dream, faith alone can finally assure us. To satisfy his readers that there is nothing singular or novel about this speculation (for indeed it seems passing strange) Huet cites from the history of Philosophy, a long array of great names, nor is he at pains to conceal that they were all disciples of the Academy, and professed sceptics.

Huet, however, as a Christian Bishop, was bound to answer an objection to his system which could not have been urged against the ancient Pyrrhonists, namely, how revelation itself could be received by a consistent upholder of his opinions; and he does not shrink from the difficulty.

“*Si ratio adeo sit infirma ut incertum sit quidquid suadet, cum suadeat ratio suscipiendam esse fidem, incertum erit an suscipienda sit fides; cumque ratio sit aditus ad fidem ob credibilitatis motiva quæ præbet si labefactetur ratio fides ipsa labefactata corruet.*”\*

To this he speciously replies that faith is like the light of heaven, not merely revealing its own presence, but enabling us to see a thousand objects of which, without

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\* “If reason be so infirm that what it suggests for our acceptance is uncertain; then, whereas reason teaches that we should admit revelation, it becomes uncertain whether revelation is to be admitted; and again, whereas reason points the way to faith by establishing the motives of credibility on which revelation rests, if reason fall powerless—then is faith itself undermined—and must fall tottering with it.”

its enlightening aid, we should remain for ever in darkness, and in ignorance. And accordingly, he adds, at the same moment that faith is infused into the soul, and illumines what had previously been blank and dark, we can perceive the force and sufficiency of the motives of credibility in that divine effulgence which accompanies faith itself.

We shall not pause to analyze the doctrine thus propounded, and maintained by the illustrious author of the "*Demonstratio Evangelica*." The arguments which he adduces to prove the imbecility of Reason, had already been advanced a thousand times before him, and had certainly been a thousand times demolished. At best, they are but adroit puzzles, and could scarce ever have made a *bona fide* proselyte. Nature and common sense revolt against them and proclaim how puerile and frivolous they are. As to Huet's views regarding the relations between Faith and Reason, the subject is of too profound a character to be dealt with in an incidental manner; we shall therefore omit the discussion of it altogether, and confine ourselves to the following general remarks on his doctrine:—1st. It is plainly false and suicidal, because it rejects philosophical evidence, and attempts to substitute in its stead a criterion which, after all, is itself necessarily amenable to evidence. 2nd. It overturns the motives of credibility upon which Revelation rests, not only by representing it as impossible to establish the sufficiency of these motives, but, in fact, by making it impossible to prove that there are any real motives of credibility whatever, sufficient or insufficient. 3rd. However pure, however excellent may have been the intentions of the distinguished writer in upholding this extraordinary speculation, it is unquestionably dangerous to faith, and leads *per se* to scepticism, irreligion, and infidelity.

A philosophical system, closely resembling that of Huet, was proposed during our own time by the Abbé Baintain, but it quickly fell under the censure of the Holy See; and the eloquent Abbé at once proceeded to retract and remodel the obnoxious portions of it.

An analogous, though entirely distinct form of Traditionalism was advocated by Lamennais. The history of that unhappy man has now become almost as trite as a schoolboy theme, so we shall not enter into a review either of his history, or of his opinions. It may be matter for surprise, indeed, how those opinions, at bottom so

extravagant and absurd, could have ever found so many adherents, adherents, too, more distinguished for intellectual eminence, and lofty enthusiasm, than even for number. But the temporary popularity of Lamennais' fanciful dreams may be easily explained. There can be no doubt that, during his early career, he had rendered most signal service to the Church in France. At that time the reign of infidelity or indifference was almost universal in his country, and even in the few places to which that reign had not extended, the evil influence of Jansenism operated in its stead, and made religion appear not as a sweet yoke, or a light burden, but a harsh, gloomy, and oppressive despotism. Hence, the voice of the gifted priest, when first raised on behalf of truth, of religion, of the rights of the Holy See, sounded like accents of inspiration amid the din of false oracles and the muttering of the prophets of Baal. Rarely, if ever since the days of the Fathers of the Church, was there brought into the field of religious controversy, such vast erudition, such splendid eloquence, so much profound and subtle thought as we find in the celebrated essay, "*Traité sur l'Indifférence en Matière de Religion*;" and in the treatise "*La doctrine de l'Eglise sur l'Institution des Evêques*," a work less generally known than the former, but abounding in noble passages, and throughout characterized by patient historical research, and luminous reasoning, the absolute dependence of the entire body upon the Head of the Church is asserted and illustrated with a force which even "a kingly Gallicanism" could not withstand.

So highly were the Abbé's services in the cause of religion appreciated at Rome, that Leo the Twelfth resolved upon elevating him to the sacred purple; and when at a creation of Cardinals, the Pope informed the consistory that among those whom he had reserved *in petto*, to be afterwards proclaimed Princes of the Holy Roman Church, was one, "a man of great talents, an accomplished scholar, whose writings, drawn *ex authenticis fontibus*, had not only rendered great service to religion, but had delighted and astonished Europe," it was almost universally understood at Rome, that his Holiness had referred to Lamennais. No wonder that a writer of such learning and eloquence, who had upheld the rights of the Holy See with such intrepidity, who had gathered around him



such a bright band of Catholic disciples—the flower of the intellect of France—who had his services so markedly and emphatically recognized by the Head of the Church;—no wonder that the whole early career of Lamennais should serve as a guarantee for the orthodoxy of his opinions, until it had been authoritatively declared that these opinions were false and dangerous.

It is not improbable that, at least in the commencement, even Lamennais himself overlooked the inherent absurdity of his doctrine in his anxiety to establish the consequences which it seemed to him might be immediately deduced from it. The audience which he addressed, the adversaries with whom he argued, and whom he sought to convince, were not men who professing to admit revelation, and every part of revelation, yet with strange perversity utterly denied revealed doctrines. Those with whom he had to deal were for the most part downright Infidels, or worse than Infidels, Indifferentists. They were men disposed to call in question even the primary truths of Natural Religion, and who if they did not overtly and boldly reject, at least sneered in silence at the idea of a Providence, a Future State, and Moral Responsibility. Now, the criterion appealed to by Lamennais,—and upheld by him as the one ultimate test and standard of truth, the *consensus generalis* of mankind,—would suffice to establish beyond doubt the existence of an overruling Providence, of a Future State, and the responsibility of human agents. The easy and important triumph thus achieved against the infidel probably blinded Lamennais himself for a time to the radical and almost transparent unsoundness of his theory, and was certainly the main cause of seducing many to embrace or tolerate that theory even for a single hour.

Nor must we overlook the fact, that some of the Abbé's more enthusiastic admirers pretended to trace a certain affinity between the rule of philosophical truth proposed by him, and the Catholic rule of Faith which consists in the infallible authority of the Church. The supremacy of authority, they contended, was upheld in his system, and it was argued that if individual reason be insufficient to attain a knowledge of the primary truths of natural religion, it is, *a fortiori*, an insecure and incompetent guide where there is question of the whole body of revelation, or even of any one of its sublime mysteries. The authority of the Church, however, as judge, witness, interpreter, and guar-



dian of revealed doctrine, has nothing in common with the fictitious authority dreamed of by Lamennais. The Church has received her prerogative of infallibility for a *supernatural end*, and that prerogative was also *supernatural* in its *institution*; the “*consensus generalis*” recognised by the Abbé, and set up by him as the basis of all knowledge and all certainty, is in every respect human and natural. The authority of the Church is not only directive, but also binding, and as they say in the schools, *coercitive*;—that is, the ordinance of God imposes upon conscience the obligation of accepting the Church’s doctrine and teaching, and they who resist that ordinance purchase to themselves damnation. The authority proposed by Lamennais may, on the contrary, be obeyed or rejected just as we approve or disapprove of its dicta. Again, the dogmatic authority of the Church resides in the *Ecclesia docens*,—i.e. in an œcumenical Council, or in the Sovereign Pontiff himself defining *ex Cathedra*; the authority propounded by Lamennais resides in the whole human race, and can be made known but by the unanimous declaration of mankind. The authority of the Church is conversant only about matters of faith, morals, discipline; the authority set up by Lamennais is necessary to assure a man that he experiences hunger or thirst,—that he knows his most intimate friends—that, in short, he apprehends anything whatever as certain.\* The Church

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\* “What philosophy is there,” he exclaims, “whose pretensions are not all uncertain, all false? The senses deceive us, and attest nothing that can be termed clear, positive, complete. Feeling is not more sure; its object, although in appearance more evident and more simple, still unless we are on our guard is nothing less than a continual series of doubts and illusions. As to reason, it is to be still more suspected; for, first of all, it only operates upon the data furnished by the senses or the feelings, (data upon which it cannot count,) and secondly, when the data are at hand, how does it operate? and what guarantee have we of the legitimacy of its procedure? What are we to think of the contradictory conclusions which it draws from the same principle? what of the identical ones it draws from different principles? What truth has it not denied? what error has it not established? In a word, must it not associate memory with all its operations? and is memory a faithful ally. Reason, feeling, sense! faculties without control! vain means of gaining knowledge!—principles of error

of God is in her teaching under the immediate guidance of the Holy Spirit, and therefore can never err; the opinions of men, even when long established and widely diffused, are frequently dictated by prejudice, or passion, or interest, and consequently calculated to mislead. There is nothing, therefore, in common between the infallible, divinely constituted authority of the Catholic Church, and the *sensus Communis* appealed to by Abbé Lamennais.

We have attempted to account for the ephemeral popularity of the heterodox opinions of Lamennais; we may add that immediately after their condemnation by Gregory XVI. all, even his warmest adherents, abandoned him. It has been beautifully and most justly observed by Cardinal Wiseman, in reference to the illfated Abbé, that never had the head of a religious school so much of fascinating power to draw the genius, energy, devotedness, and sincerity of ardent youth about him; never did any so well indoc-trinate them by his own principles as to make them invincible by even his own powers. He was in this like Tertullian, who when sound of mind, prescribed medicines too potent for the subtle poisons which he dealt out in his heterodox insanity. Into such disrepute did the opinions of the Abbé fall, immediately after their condemnation by the Holy See, that one of the usual arguments advanced by the opponents of every form of Traditionalism was, that it bore a fatal resemblance to the Traditionalism of Lamennais.

The question of Traditionalism discussed by Mgr. Parisis has nothing but the name in common with the Traditionalism vindicated by Huet or Lamennais. In the theory of Lamennais, as well as in that of the Bishop of Avranches, the inherent powers and resources of the intellect are supposed to have been already developed—the reason, memory, imagination, all the faculties of the mind,

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and incertitude. These it is which deprive man of all hope of having either knowledge or faith from himself; there is for him no reality, either within or without; there is nothing *up to the very truth of his own existence*, in which he has any right to believe, unless he has some other reason than his own private sentiment and his own individual consciousness.” This other reason consists, of course, in the *consensus generalis* of mankind.—See Morell’s History of Modern Philosophy, vol. ii. p. 285.

cognitive, elaborative, constructive,\* by whatever names psychologists choose to designate them, it may be assumed, have been long in operation, and have undergone the highest training of which they are capable. But no matter how judiciously cultivated, or how fully developed they are, truth still lies beyond their reach, unless the aid of authority, the general consent of the human race, should be invoked to point it out, and rescue them from a scepticism which, without such extrinsic guidance, would be their inevitable doom. Huet and Lamennais, if we may use the illustration, assume that the ship has been already fairly launched, that the canvas is spread, and all her bright gear before the sun; but so many sharp rocks threaten on one side, or the storm rages so wildly on another, or it may be that, when there is calm, the song of syrens comes over the waters with such magical and dangerous sweetness, that there can be no hope of safety, not even for a single hour, unless the steady hand of authority ever holds the helm, and shapes the vessel's course.

Mgr. Parisis contemplates the mental faculties in quite a different condition, and in entirely different circumstances. He discusses not the possibility of their making progress, after having been called into action, but the means necessary to their being at all exercised. He does not entertain the question whether the mind, if once in pursuit of truth, is of itself capable or incapable of attaining it; but rather how it is awakened to a consciousness of its own powers, and how it comes to take the first step in search after truth. To recur to our nautical illustration, it is the launch, and not the vessel's after course, that occupies his attention. And for that launch, according to Mgr. Parisis, and the school of Traditionalists, of whom we now speak, extrinsic aid is indispensable to the mind as well as to the ship. If abandoned to its own inherent resources, the mind, too, would remain for ever little better than a useless log on the strand, before which stretches out the great sea of speculation. Though capable of being impressed with the fairest and brightest characters, without extrinsic aid it would for ever continue a desolate blank. If, however, in the pursuit of knowledge, Mgr. Parisis insists upon the necessity of authority, we

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\* See Sir Wm. Hamilton's *Lectures on Metaphysics*.

should remember that it is only for the outset, for the mere starting; while Lamennais requires authority to guide every step of the journey.

The difference of purpose, then, for which authority or tradition is appealed to in both theories, plainly shows that there is no affinity,—in fact, nothing in common but the name between them. But they also differ most materially in another point of view, namely, in the nature and character of the authority which they respectively demand. The authority insisted upon by Huet is, in fact, the infallible dogmatic authority of the Church in matters of faith,—while Lamennais makes the natural *consensus* of mankind the one necessary rule and criterion of philosophic truth. Absolute scepticism, scepticism quite as extreme as that of the Pyrrhonists, is the immediate logical result of either doctrine; because if you set out with the assumption that reason is incapable by itself of knowing anything as certain, it follows that reason can never be legitimately convinced either of the existence of an infallible authority in religion, or of an “universal consensus” among mankind. The philosophical criterion, therefore, proposed by Huet and Lamennais, was practically a myth, a phantom island, which the traveller was doomed to see ever receding before him, and ever eluding his most ardent pursuit. Not so the criterion advocated by the Bishop of Arras. He enforces the necessity, it is true, of some extrinsic guidance, the aid of some intelligence distinct from our own; but the teaching of parents or guardians, in short, intercourse with any rational nature, is sufficient. The only difficulty that can arise in this view, would have reference to the mode of developing the faculties of the first man,—and on this point Mgr. Parisis judges that, at least with Christian readers, it will be no disparagement to his theory that he insists upon as a psychological necessity what we know from the inspired narrative, to be an unquestionable fact,—namely, that God Himself conversed with our first parents, and consequently did Himself instruct them, and bring their faculties to maturity;—if indeed, the creation and development of those faculties had not been simultaneous. That the authority required by Mgr. Parisis, is in practice easily accessible, and, as a matter of course, is always exercised in unfolding the power of the mind (except, perhaps, in some extraordinary and abnormal cases to which we shall have occasion to refer

immediately) is indisputable ; but the question remains—is the influence of such authority necessary ;—in other words, is the intellect absolutely incapable of spontaneous development ?

The principal arguments advanced by the Traditionalists, in support of their view, may be brought under three classes: those of the first profess to be derived from actual experience, and to rest upon a sufficiently wide induction ; those of the second are founded upon the connection between thought and language ; and the arguments of the third class upon which Mgr. Paris's mainly dwells in the work before us, take their force from analogy. A complete volume would scarce suffice for a suitable treatment of those arguments, and this, we trust, will be accepted as our apology for the very imperfect manner in which we are compelled to deal with them.

I. The first class of arguments is furnished by the history of a number of unhappy children, who, at different times and in different places, grew up to physical maturity, having been cut off since their birth from all social intercourse with their fellow beings, beyond the supplying of mere corporal wants. This history is dwelt upon at great length by several writers, but is stated in a compendious and forcible manner by a distinguished professor of the University of Louvain, from whose learned and able work on Logic, we transfer the following (alleged) facts ;—pre-mising that M. Ubaghs is himself a decided and almost vehement Traditionalist.

1st. Herodotus\* gives us the history of an infant whom Psammeticus, King of Egypt, had brought up in such manner that he should never hear the sound of human voice, and the result was the absence of any degree of intelligence that could raise him above the level of irrational creation. Father Juvenciust relates that Ackebar, Emperor of the Moguls, anxious to ascertain by experiment to what religion nature, if left entirely to herself, should incline the human heart, had no less than thirty children brought up in similar seclusion from all social intercourse ; and when, after a probation of many years, they appeared in the presence of the imperial psychologist,

\* *Hist. lib. 11. c. 2.*

† *Hist. Soc. Jesu. part v. lib. 18.*

and were interrogated by him, they were found to be dumb and stolid as so many fishes; and beyond their human shape, it was impossible to detect one attribute of humanity. The worthy Jesuit father appeals to the testimony of F. Jerome Xavier, nephew of the great apostle of the Indies, in confirmation of this extraordinary story. In addition to the above, we may refer to the more recent history of Gaspar Hauser, the infant of Nuremberg, and to the history of the unfortunate children alluded to by Puffendorf *de Jure Naturæ et gent*, lib. 11. c. 2. s. and to perfectly similar histories mentioned by several other writers of respectability and eminence.

2nd. The condition of deaf-mutes, though not at all so deplorable as that of the wretched beings we have been noticing, serves to throw considerable light upon the question with which we are concerned. The deaf-mute is not entirely and cruelly relegated from commerce with his kind; the sense of vision forms an inlet by which he receives a number of impressions that bear a meaning with them, and thus he holds at least an imperfect, and partial communion with his fellow man. He beholds on every side a variety of signs and gestures, to some of which nature herself attaches a peculiar signification. And yet with these comparative advantages, we believe that the state of the deaf-mute, without some artificial form of instruction, specially adapted to his wants, would be almost as lamentably akin to that of the irrational animal, as was the condition of Gaspar Hauser, or the girl Leblanc, mentioned by Dr. Feller. (*Dict. Hist. art. Blanc.*)\*

Experience is thus alleged as furnishing the basis of a most cogent argument in favour of Traditionalism. The poor children who grew up apart from all human intercourse, deprived of all human instruction, are regarded as fair types of human nature, and what was their destiny, would, it is maintained, have been, in the same circumstances, the destiny of any other among the sons of men,

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\* For proofs of the truly miserable condition of deaf-mutes without the aid of some artificial form of instruction, see *L'Histoire de L'Academie des Sciences* for 1703—DE L'EPEE *Veritable maniere de instruire les sourds muets*; SICARD, *Cours d'instruction d'un sourd-muet*; DE BONALD, *Legisl. primit.* tom. 1 et 2.



the fate alike of a "Newton or a Styles." There is no fair ground to presume that in the instances enumerated by the advocates of Traditionalism any one of the children laboured under radical imbecility of mind, such as with the advantage of ordinary culture might cause him to be signalised for stupidity among his fellows. On the contrary, some of them were no sooner admitted to their natural privilege of intercommunion with their brother men, than they at once gave proof that the attribute of godlike reason had not been dead, but only unawakened in them, and that they very plainly belonged to the class of the "animal sagax, providum, memor, plenum consilii et rationis."\* Their lamentable deficiency, therefore, was owing entirely to the want of competent instruction, the want of communication with beings endowed with intelligence like themselves. Still less can it be affirmed that the many deaf mutes, who at least in past times, and before Catholic charity and Catholic zeal had made suitable provision for their melancholy wants, were but too frequently allowed in this country to pass their lives without any adequate or enlightened attempt to alleviate their privation, still less, we say, can it be argued that if they betrayed painful dulness, and impotence of comprehension, it was owing to any inherent defect of mind. Without going in quest of examples beyond the precincts of our own great and truly noble Catholic Institution for the Deaf and Dumb in Ireland, it is abundantly manifest that there are several whose lips and ears are sealed for ever, and yet the breath of life breathed into the frail clay by God, the spirit within made unto the image and likeness of its Creator, is as capable in them of admitting the rays of the Eternal Light, which enlighteneth every man coming into this world, as if it had pleased their Father in heaven to make them speak with a tongue that might command the applause of senates. And yet, notwithstanding the great natural capacity for acquiring knowledge evinced by some of the inmates of the Institution for the Deaf and Dumb, it seems to be a well established physiological fact, that without the care of zealous and enlightened instructors, that capacity would have remained latent, and as if really barren, would never have put forth fruit. The obvious consequence, according to the Traditionalist, is that culture or

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\* Cicero.



suitable instruction is the necessary means, the absolute and indispensable condition for the development of the powers and resources of the mind.

3. It is asserted by the Traditionalists that every man, even in the most favourable circumstances, when enjoying the perfect use of the senses, and receiving the most suitable instruction *ab extra*, supplies in his own individual character an illustration of the necessity of some *institutio aliena*. For are we not all influenced by first impressions and early associations? How firmly and how long do we cling even to the errors and absurdities of our first teachers! Is it not a well-known fact that our early apprehension of abstract truths is more or less correct, according to the accuracy of the language employed by those who were our first instructors?

II. The force of the argument in favour of the Traditionalist view derived from the connexion between thought and language plainly depends upon the solution of the two following important and difficult questions, 1. is thought—i.e. the knowledge of supersensual or abstract truth—of God, virtue, duty, moral responsibility, &c. possible without the aid of language? 2. Could man, if left to his own resources, have invented language? Both these questions the Traditionalist resolves in the negative.

1. To determine the exact relation between thought and language is certainly, to our apprehension, among the nicest and most intricate problems in the whole course of metaphysical speculation. Instead, therefore, of attempting a formal discussion of the question in these pages, we shall be content with placing before our readers the result at which some of the most eminent thinkers of modern times have arrived on this subject. We shall begin with De Bonald, who is very explicit indeed, and very decisive on the point. “L’homme,” he says, “ne peut parler sa pensée, sans penser sa parole.”\* De Stolberg† writes, “By means of speech man holds communion not only with others but with *himself*,” an idea in perfect accordance with Plato’s definition of reasoning, (Theæt and Sophist) where he teaches that “when we

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\* *Rech. Phil.* t. 1. c. 8.

† *Betrachtungen und Beherrigungen der Heiligen Schrift.* vol. 1. s. 6. n. 17.

reason we hold converse within ourselves." Condillac himself does not hesitate to affirm " nous ne pensons que avec des mots." Ancillon may be quoted to the same effect,\* " Il faut penser pour inventer les langues, et sans les langues il n'est pas possible de penser ; car on ne pense pas sans notions, et les notions ne peuvent être fixées que par les mots." Damiron also is of this opinion.† " Que l'homme ne peut avoir des idées, de véritables idées sans mots, rien de plus constant." We cannot omit Dege-  
rando, " Le langage n'est pas moins nécessaire à l'individu isolé pour le développement de ses facultés et l'acquisition de ses connaissances, que pour ses communications avec les autres hommes."‡

The authority of Leibnitz is clearly on the same side, for he calls language " le miroir de l'entendement."§

\* *Essais de Philos. &c.* vol. i. c. 4.

† *Hist. de la Phil. art.* De Bonald.

‡ And again, vol. i. p. 73. he says, " L'homme a aussi peu inventé le langage, qu'il s'est inventé lui même, car toute invention suppose un dessein, une volonté, un choix de moyens. Mais la pensée a aussi peu précédé le signe que le signe a précédé la pensée. L'une ne peut pas exister sans l'autre. Les représentations individuelles et particulières pourroient avoir lieu indépendamment des termes qui les expriment, mais les idées générales sont impossible à concevoir, et à former sans les signes qui seuls réunissent leurs traits, fixent leur vague existence et leur donnent de la réalité.

§ B. Cogitationes fieri possunt sine vocabulis.

A. At non sine aliis signis. Tenta, quæso, an ullum arithmeticum calculum instituere possis sine signis numerabilibus?

† B. Valde me perturbas, neque enim putabam characteres vel signa ad ratiocinandum tam necessaria esse.

A. Ergo veritates arithmeticae aliqua signa seu characteres supponunt?

B. Fatendum est.

A. Ergo pendent ab hominum arbitrio?

B. Videris me quasi præstigiis quibusdam circumvenire.

A. Non mea hæc sunt, sed ingeniosi admodum scriptoris.

B. Adeone quisquam a bona mente discedere potest, ut sibi persuadeat veritatem esse arbitrariam et a nominibus pendere cum tamen constet eandem esse Græcorum, Latinorum, Germanorum, geometriam.

A. Recte ais, interea difficultati satisfaciendum est.

“ Without speech,” says Hobbes, “ consisting of names or appellations, and their connexion whereby men register their thoughts, recal them when they are past, and also declare them one to another for mutual utility and conversation: without such speech there had been amongst men neither commonwealth, nor society, nor content, nor peace, no more than among lions, bears, and wolves. The first Author of speech was God Himself.”\*

“ I assert,” writes Dugald Stewart, after a lengthened investigation of the subject, “ that in so far as our speculations consist of that process of the mind which is properly called reasoning, they may be carried on by words alone.”†

In fact we do not hesitate to affirm that it is almost the unanimous opinion of philosophers that, if not without articulate speech, at least without some artificial contrivance, some kind of symbolical mechanism, it would be impossible to carry on a train of reasoning, or attain any high degree of intellectual perfection.

2. To establish the Traditional view, it is necessary not only to prove the dependance of thought upon language, but also to show that man, if left to his own resources, is incapable of inventing language; and here we are brought to another of the many *quæstiones vexatæ* of psychology. The Epicurean theory on this subject is as degrading as it is unphilosophical and absurd—and the man who, with Virey or Volney, should labour to trace back his own origin to some wonderful plant or fish, insect or reptile,‡ must of course expect to have his career

B. Hoc unum me male habet quod nunquam a me ullam veritatem agnosci, inveniri, probari animadverto, nisi vocabulis vel aliis signis in animo adhibitis.

A. Imo si characteres abessent, nunquam quidquam distincte cogitaremus, neque ratiocinaremur, &c. &c.—Leibnitz *Dial. de connex. inter res et verba*. *Œuv. Phil.* Ed. Raspe. p. 509, &c.

\* *Leviathan*, cap. 4.

† *Philosophy of the Human Mind*. Part I. c. iv. on Abstraction.

‡ “ Cum prorepserunt primis animalia terris  
Mutum et turpe pecus.”—*Hor. Serm.* Lib. i. 3.

“ D'autres, hereusement en petit nombre, font encore l'homme par les seules forces des agens physiques, de la chaleur du Soleil, et des

crowned by a destiny worthy of such exalted antecedents. Condillac admits on the authority of the inspired narrative that our first parents were actually endowed by God with the gift of speech, but contends at the same time that even if left to their natural resources they had themselves the power of inventing it. And accordingly this admirer and disciple of Locke is at great pains to expound and illustrate the process by which even the *mutum et turpe pecus* of the Epicureans might advance step by step until at length they should have framed for themselves a most perfect and complete language. The illustrious De Bouald has brought to bear upon the investigation of this interesting subject a mass of information, a patience of research, a power of analysis which make his immortal work the great *thesaurus* from which students after him are compelled to select their best materials, on whatever side of the controversy they may chose to range themselves. And it is the clear conviction of this profound philosopher, that man, with his unaided natural resources, could never have succeeded in inventing a language worthy of the name, or in bringing it to any appreciable degree of perfection.

It should be carefully remembered that the true question at issue in reference to the origin of speech, is not whether man, given the primary elements of language, is capable of so moulding, combining, compounding them as to form a variety of idioms, and in course of time a variety of languages. The real question is, whether, if left to himself, he could ever succeed in inventing, or to speak more accurately, in creating those elements themselves. We are decidedly of opinion that the weight of evidence is altogether in favour of the negative, but as we cannot discuss the matter *ex professo*, we shall be content with the following observations.

1. Though several attempts have, at different times and in different countries, been made by men of the most conspicuous ability to invent a new language, that is, not to form a new idiom or new dialect out of preexisting mate-

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suce de la terre, d'abord plante ou poisson, insecte ou reptile, ayant tout a acquerir pour devenir homme, ame et corps, pensée et parole, et ayant tout acquis a force de temps et de circonstances favorables."—Œuvres de M. De Bouald. vol. viii. c. iv. p. 120.

rials, nor engraft a new branch on an old stem, but to create a new speech, even to the roots and elements, the attempts have invariably resulted in the most signal and indeed ludicrous failure. If any philosopher were ever competent for such a task, we should imagine that the genius and vast acquirements of Leibnitz preeminently fitted him to accomplish it. The great Teutonic Titan did undertake the task, and brought all his gigantic strength and matchless skill to bear upon it. His purpose, however, we should remark, was apparently a modest one. He did not dream of inventing a language suited even to the daily exigencies of life, much less capable of bodying forth the creations of the poet, or the fervid inspiration of the orator. He was merely intent upon founding a new form of speech, capable of conveying the simple, dry dicta of abstract science. And Leibnitz, like all who had trodden the same path before, or since, failed, and failed egregiously. The genius, then, able to create a new tongue, even for the most restricted requirements, has still to claim the homage and admiration of the world.

2. It will not be denied that languages, the languages in common use, have not been created to-day, or yesterday; it is clear they have been transmitted. We are compelled to take them as we find them, and in employing them conform to the laws and conditions imposed by usage. Reason is forced to accept this necessary instrument, just as Tradition has furnished it, and even the simplest and most elementary sciences are not independent of it. And with regard at least to modern European languages, (the authentic origin of ancient languages, without the light thrown upon it by the history of the Dispersion, would baffle the most elaborate researches of philology, and should in fact be regarded as lost in the night of time,) they are clearly formed out of common elements, and are therefore to be considered a work, not of creation, but of arrangement and combination. At best they evince only the skill of the builder, using pre-existing materials, oftentimes heterogeneous enough; materials, however, which he merely brought together but did not produce. For instance, it cannot be doubted that the Italian, Spanish, and French languages are so many dialects growing out of the gradual corruption of that tongue, which had been once universally spoken in all the Western provinces of the Roman Empire. They have come to

deviate from the original in various degrees, but owing to nearly similar causes. The retention of words and forms of speech which had been in use before the subjugated provinces had seen the Roman eagles, the admixture of these words with the polished language of the conquerors, vicious pronunciation and orthography, neglect of grammatical rules, the inroads of the Northern nations, who brought their native tongue as well as their barbaric courage, into the fairest portions of the great falling empire, these and other causes pointed out by philosophers, suffice to explain the difference between the three languages we have alluded to, while the identity of their origin cannot be controverted. Du Cange, in the preface to his Glossary; Muratori, in his 32nd, 33rd, and 40th dissertations on Italian Antiquities; M. Raynaud, in the first and sixth volumes of his *Choix des Poésies des Troubadours*, give us an ample account of the formation of these languages, and prove clearly that they are but different branches of the same stock.

3. If, says Mgr. Parisis, we carefully analyse the structure of modern languages, we cannot fail to trace therein an influence and an agency similar to that which pervades the works of God in the physical order. As the chemist, for example, recognises in the most elaborate and complicated physical substances, nothing more than the assimilation and union of a few simple elements, so the patient philologer, analysing the most difficult and artificial forms of speech, discovers that they have been constructed out of common primitive materials.

“De part et d'autre, ce sont des élémens qui se décomposent et s'assimilent pour se recomposer. Ainsi ce sont des mots latins, grecs, celtiques, tudesques, gaulois, etc. etc. qui d'abord se rencontrent, parce que les peuples qui les parlent, s'étaient eux-mêmes rencontrés. Peu à peu ces mots tendent à faire entre eux comme une espèce d'alliance; ils se modifient de part et d'autre pour mieux s'accorder; puis arrivent, on ne sait d'où, certaines formules nouvelles auxquelles personne n'a pensé, certaines particules auxiliaires, certains agencements de phrases, qui tous se combinent pour arriver à un certain ensemble, et, quand cet ensemble est atteint, la langue est faite, sans que personne ait pu dire, même pour la plus petite part: 'C'est mon ouvrage.' Quelques esprits viendront plus tard donner à l'œuvre un certain poli, et nous avouons sans peine que le génie de l'homme sait perfectionner une langue: mais la

creer, jamais il ne l'a su—Dieu s'est réservé ce droit.”—pp. 60-61.\*

The weight of philosophical authority is entirely in favour of the view that it is not within the power of man to invent language. Instead of accumulating quotations, we shall merely refer the reader to a highly interesting work on the subject *Du Langage et de Son Role, &c.*, published by Lecoffre in 1852, where he will find an admirable summary of the views on the origin of language, held by philosophers from Plato and Aristotle, down to modern times. The author, M. Jehan, is a member of the Geological Society of France, and of the Royal Academy of Sciences at Turin, and gives the reader abundant data to decide for himself how completely authority is for the opinion that man is incapable of inventing speech.

III. The chief argument advanced by Mgr. Parisi, is founded upon analogy. The illustrious prelate seems to assume that if we exclude the necessity of Tradition, instruction, some kind of *institutio aliena* and hold that man is capable of attaining knowledge without any such aid, we then virtually ascribe to man an absolute creative

\* As a specimen of the style in which Mgr. Parisi's work is written, we may give the following extract on this same subject of the origin of language.

“Un des caractères qui n'appartiennent qu'aux œuvres de Dieu, c'est l'unité dans l'infinie variété. Un arbre, revêtu de milliers de feuilles, n'en a pas deux qui soient entre elles parfaitement semblables, et cependant il n'y en a pas une qui ne représente toujours le genre d'arbres auquel elle appartient, tellement que la méprise est impossible, et que la feuille du figuier ne ressemble jamais à celle de la vigne. Eh bien, il en est de même des langues. La manière d'y associer les mots est également comme infinie, et de tant de milliers de pages écrites par diverses personnes dans le même langage, il n'y en a certainement pas deux qui, composées séparément, expriment les mêmes idées dans les mêmes termes ; et cependant prenez-y la première phrase venue, portez-la n'importe où, jamais ou ne la pendra nulle part pour une phrase d'une autre langue. N'est-ce pas bien l'infinité dans l'unité ? Quel est donc l'homme qui oserait se lever et dire : Oui, je suis capable de faire une telle œuvre ? Que l'on voie les ouvrages qui viennent vraiment des études de la raison et que l'on compare.—Quoi qu'il en soit, il est certain qu'ici l'histoire constate, sinon l'incapacité absolue, du moins l'absolue stérilité de l'esprit humain. Jamais il n'a produit une langue,” &c., &c.



power, the power namely of creating ideas, not merely of combining, associating, analyzing, compounding ideas, but the power of educating them *ex nihilo*. Now creative power, whether God might or might not, if He so willed, communicate it to finite beings, is, as a matter of fact, strictly reserved to the Deity. All productions of the creature not only suppose preexisting materials, but require moreover, cooperation *ab extra*; and that it is so Mgr. Parisis undertakes to prove and illustrates at great length, by arguments derived from the Ontological order, arguments furnished by Theology from the Supernatural order, and, finally, by a highly interesting series of arguments drawn from history. What precise force such arguments may have with the French mind, we can hardly conjecture; our neighbours, if not more subtle, are doubtless much more familiar with subjects of this class than we are in Britain; but for our own part, though on the whole, rather inclined to sympathise with the view advocated by the Bishop of Arras, we are fain to acknowledge that to our apprehension, some of his proofs are eminently fanciful, and we may add inconclusive. We confess at the same time to a latent suspicion that we may be held guilty of presumption in thus characterising any argument advanced by a man of such surpassing ability as Mgr. Parisis, but let the reader, more sagacious than we are, judge for himself of the bearing of the following argument on the question under discussion.

“In the fulness of time the Eternal Word becomes flesh, and the Immaculate Mother, chosen by God, might always truly say: *Virum non cognosco*; and Faith obliges us to believe that in becoming a mother, she remained a Virgin; *Beata Mater et Intacta Virgo*. The Church also teaches that her Divine Son, *Sine semine nasci dignatus est*. Well, notwithstanding, even in this mystery which so infinitely transcends all Nature, even in this generation so adorable, even in this all-divine maternity, God was anxious that the impotence (*l'impuissance*) of the creature, abandoned to itself alone, should be made manifest. No! Mary knew not man, but the Holy Ghost interposed from on high: *Spiritus Sanctus superveniet in te*. Yes, Mary conceived *sine semine*, but not of herself alone; *concepit de Spiritu Sancto*. Yes, Our Lord was born of a Virgin, *Natus ex Maria Virgine*, but it was by the power and operation of the Holy Ghost He became incarnate. We

can imagine nothing more conclusive (in favour of Philosophical Tradition) nor more sacred.”—(page 15.) Nothing surely can be more sacred or more sublime, but we fail to detect the cogency or conclusiveness of the argument, or even its bearing on the question at issue.

Again, “Far surpassing the work of creation, there is in the Deity, an operation infinitely adorable, eternal, substantial, necessary, of necessity, the most intimate and absolute, namely, the generation of the Divine Word. Assuredly this attribute of the Eternal Father begetting His consubstantial Word, is far more incommunicable than the power of Creation, since the other two Persons of the most Holy Trinity neither have nor can have it.” The idea here is obvious enough, but whether in point of metaphysical phraseology it be strictly accurate to say that the Father possesses an attribute not possessed by the other two Persons of the Blessed Trinity, it is not within our scope to inquire. Mgr. Parisi goes on, “The Son is begotten of the Father; the Holy Spirit is not begotten, but He proceeds from the Father and the Son. Behold the great primary mystery, the foundation and source of all others. Outside this eternal and impenetrable sanctuary, everything which has been made either in heaven or on earth, has been made by the Word, in this sense that without Him nothing has been made or has being,—that is to say, without His intervention, direct or indirect: *sine ipso factum est nihil quod factum est.*”—p. 24.

But who among the opponents of Traditionalism, has ever denied what is here stated by Mgr. Parisi? To vindicate the doctrine of the Evangelist, *Sine ipso factum est nihil quod factum est*, it is sufficient to uphold the truths regarding Creation, Immediate Conservation,\*

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\* The nature of Conservation may be stated in the words of the Apostle, *Portans omnia verbo virtutis suæ* (Heb. i. 3.); or of St. Augustine, “*Creatoris namque potentia.....causa est susistendi omni creaturæ quæ virtus ab eis quæ creata sunt regendis si aliquando cessaret simul et cessaret illorum species, omnisque natura consideret. Neque enim sicut structor ædium, quum fabricaverit abscedit, atque illo cessante atque aloscedente, stat opus ejus, ita mundus vel ictu oculi stare poterit, si ei Deus regimen sui subtraherit.*” (*Super. Gen. ad Litt. l. iv. c. 12.*)

Special Concursus,\* taught now by all Catholic Metaphysicians, whether they range themselves on the side of "Tradition," or of "Reason." If it be maintained that the controversy regarding Tradition and Reason, which has been conducted with so much vehemence for a number of years in France and Italy, does really resolve itself into the old question regarding Immediate Conservation, and Special Concursus, it would be well if the Traditionalists said so at once and articulately.

The *common* Catholic doctrine regarding the nature of *conservation* and *concursus* has been stated by a great Catholic divine and metaphysician, in language as noble as ever came from the lips of man :

"I mean, moreover," says Dr. Newman, "that God created all things out of nothing, and preserves them every moment, and could destroy them as easily as He made them, and that in consequence He is separated from them by an abyss, and is incommunicable in all His attributes. And further, He has stamped upon all things in the hour of their creation their respective natures, and has given them their work and mission, and their length of days, greater or less, in their appointed place. I mean, too, that He is ever present with His works, one by one, and comforts everything He has made by His particular and most loving Providence, and manifests Himself to each according to its needs.....His are all beings, visible and invisible, the noblest and the vilest of them..... His too are the powers and achievements of the intellectual essences on which He has bestowed an *independent action* and the *gift of origination*.....The elements and types and seminal principles and constructive powers of the moral world, in ruins though it be, are to be referred to Him. He 'enlighteneth every man that cometh into this world.' His are the dictates of the moral sense, and the retributive reproaches of conscience. To Him must be ascribed the rich endowments of the intellect, the radiation of genius, the imagination of the poet, the sagacity of the politician, the wisdom

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\* The nature of concursus, is described by St. Thomas (*Summa contra Gent* Lib. iii. c. 57.) Sicut autem Deus non solum dedit esse rebus quum primo esse incepserunt, sed quamdiu sunt esse in eis causat, res in esse conservans ita non solum quum res primo conditæ sunt eis virtutes operativas indidit, sed semper eas in rebus causat ; unde, cessante influentia divina, omnis operatu cessaret. Omnis igitur rei operatis in Ipsum reducitur sicut in causam." The doctrine regarding conservation and concursus here set forth by St. Augustine and St. Thomas is the ordinary Catholic doctrine taught in all Catholic Schools of Philosophy.

(as Scripture calls it,) which now rears and decorates the Temple, now manifests itself in proverb or in parable.....Anticipations or reminiscences of His glory haunt the mind of the self-sufficient sage and of the pagan devotee; His writing is upon the wall, whether of the Indian fane or of the porticoes of Greece. He introduces Himself, He all but concurs, according to His good pleasure, and in His selected season, in the issues of unbelief, superstition, and false worship, and changes the characters of acts by His overruling operation. He condescends, though He gives no sanction, to the altars and shrines of imposture, and He makes His own fiat the substitute for its sorceries. He speaks amid the incantations of Balaam, raises Samuel's spirit in the witch's cavern, prophesies of the Messias by the tongue of the Sibyl, forces Python to recognize His ministers, and baptises by the hand of the misbeliever. He is with the Heathen dramatist in his denunciations of injustice and tyranny, and his auguries of divine vengeance upon crime. Even on the unseemly legends of a popular mythology He casts His shadow, and is dimly discerned in the ode or the epic, as in troubled water or in fantastic dreams. All that is good, all that is true, all that is beneficent, be it great or small, be it perfect or fragmentary, natural as well as supernatural, moral as well as material, comes from Him.\*

This is a truly eloquent and magnificent statement of a common Catholic doctrine, and we fancy that Mgr. Parisis, though he discusses the subject in detail, and points out the absolute dependence of the creature, its absolute insufficiency, if abandoned to its own resources in the physical, intellectual, moral world, has not established more by his ontological argument than Dr. Newman here glowingly sets forth. The supreme dominion of God on the one side, and on the other, the complete dependence of the creature, its utter helplessness if left to itself, was surely an article of belief before the controversy regarding Tradition and Reason had ever been mooted. The real question at issue between the Traditionalist and his adversary is not whether the creature is essentially dependent upon the ordinary providence of God, but whether at least in reference to the First Man it was a psychological *necessity* that in order to develope his faculties God should have interposed in some *peculiar* way, and should Himself have conversed with and instructed Adam. We submit that Mgr. Parisis's argument establishes no such

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\* Dr. Newman on University Education, Discourse iii.

necessity. Even if it were clearly proved that besides the ordinary *essential conservation and concursus* some other extrinsic aid or influence is required in the ontological order, and that without such aid everything in that order (except mind) is doomed to sterility and unproductiveness, the analogy would not suffice to prove the same sterility and impotence with regard to mind. For it might still be justly maintained that on intellectual essences alone has God bestowed "an independent action and the power of origination." And in truth there is nothing in the ontological order which (if perhaps we except the angels) can be placed in comparison with the soul, for it alone has been made after the image of God, it alone has been redeemed by the sufferings and death of a Man-God, and it alone has been destined to love and enjoy God for ever.

To enable the reader to appreciate the real value of Mgr. Parisis's analogical argument we shall set down some of his propositions in his own words. He begins by affirming that "the creature never becomes a creator"—*"La creature ne cree pas."*

Surely it cannot be denied: *Unus est altissimus creator omnipotens*—so much so that, according to Billuart, (Juxta St. Thom. *De opere Lex Dier.* diss. 1. art. 4.) it is a dogma of faith that God alone has created everything; *Dogma fidei est solum Deum de facto creasse universum.* But does it therefore follow that God has not bestowed upon intellectual essences the gift of independent action, and the power of origination?

Again, we have as a leading proposition that "the creature never vivifies, i.e., never bestows life."—*La creature ne vivifie pas.* § ii. p. 10.

Let it be granted—*Quoniam apud te, Deus, est fons vitæ*, (Ps. xxxv. 10,) and again, *Vita in voluntate ejus.* (Ps. xxix. 6.) Let us admit in their literal and most rigorous sense, the words of the mother of the Machabees—"I know not how you were formed in my womb: for I neither gave you breath, nor soul, nor life, neither did I frame the limbs of every one of you. But the creator of the world that formed the nativity of man," &c. (2 Mach. vii. 22.) But how can this be any proof or any link in the analogy by which it is attempted to establish that the mind of man is not endowed with the gift of independent action, and the power of origination?

Once more:—we are told that the creature is not only

incapable of bestowing life, but that it has need of other creatures even for the development and preservation of its own, *La creature a besoin des autres creatures pour developper la vie en elle-meme*, s. 3, p. 11.

Well, this proposition, too, is incontrovertible. The grain of mustard seed, for instance, is the least of all seeds, but the germ is so active and contains such a principle of fecundity, that when it is grown up, it is greater than all herbs, and becometh a tree, so that the birds of the air come and dwell in the branches thereof. But notwithstanding the activity and strength of the principle inherent in the mustard seed, it, too, instead of growing up to become a stately tree, would soon languish and die, if it did not derive succour and nutriment from without. The genial influence of shower and sunshine, and of propitious soil, are absolutely necessary for its growth. Nay, look to man himself, the lord and king of creation. How dependent and how precarious his life is—

“What's life? at best a wandering breath—  
When saddest, but a parting sigh—  
When happiest but a summer wreath.”

“Man,” says Mgr. Parisi, “depends, as far as his natural life is concerned, upon a few atoms of air being granted or denied to him. Assuredly there is so far no ground for his taking pride to himself. But it was precisely for this reason that God wished to make him dependent upon things so inferior to himself,—*ut non gloriatur omnis caro in conspectu ejus*.” 1 Cor. i. 29, s. 5, p. 12.

This absolute dependance of all organic life, upon external influences, we unhesitatingly admit; but again, we are forced to repeat the question, how it thence follows that God has not bestowed upon intellectual essences the gift of independent action, and the power of origination?

No; the analogy furnished by observation of the mineral or vegetable, or animal kingdoms, terminates with them, and cannot be extended to the mind. It is useless to prove, as far as the present question goes, that these kingdoms are characterised by a general all-pervading uniformity, and that the law of dependent action may be traced everywhere, while the power of origination is not at all to be found. The soul has nothing in common with the rude forms of mere mechanical adjustments, nor even with the



highest forms of chemical affinity, and geometric adaptations. With regard to organic nature, the botanist will trace the richness of the rose, or the fairness of the lily, down to the very germ-cell, and tell us that if from thence grew the beautiful flower we behold, it was only the result of selection, adaptation, assimilation, or at least of reproduction, but never of independent action. It may be so, but the structure of the mind is incomparably grander than that of the rose or of the lily, and of an entirely different order. The physiologist, too, may point out as far as is known to science, the rudimentary source of animal existence, the hidden depths of animated being, the seminal principle whence spring the various forms of life, from the meanest insect up to man himself with his noble organization; and he may assure us that the development from that germ, is also in its kind, a work of assimilation, nutrition, and so forth, but never of independent action. It may be; but the existence of the mind is as far raised above mere animal existence as Spirit is superior to matter, as reason is superior to brute instinct.

The argument derived from the theological or supernatural order seems to us no less exceptionable than the preceding. We really are unable to discern any—even the remotest affinity between the doctrine combatted by Mgr. Parisi and the Pelagian or Semipelagian heresy. And unless there be some kindred between them—of what use can it be to quote in favour of Traditionalism texts of Sacred Scripture or decrees of Councils to the effect that without the aid of Divine grace man is incapable of attaining to Faith or the beginning of Faith—or of performing any work whatever conducive to eternal life? And yet the Bishop of Arras is at pains to cite all the texts and decrees ordinarily found in theological treatises bearing upon this subject. “*Sine me nihil potestis facere*” (Joan. xv. 5.); “*Nemo potest venire ad me nisi Pater meus, traxerit eum,*” (Joan. vi. 44.) “*Gratia Dei sum id quod sum.....Non ego sed gratia Dei mecum,*” (1 Cor. xv.) “*Deus est enim qui operatur in nobis et velle et perficere*” (Philip. ii. 13.) “*Non quod sufficientes simus cogitare aliquid a nobis, quasi ex nobis, sed sufficientia nostra ex Deo est.*” (2 Cor. iii. 5.) “*Nulla facit homo bona quæ non Deus præstat ut faciat homo.*” (Conc. Araus. ii. cap. xx.) &c. &c. Sacred authority, indeed, is here clear and decisive: it assures us that if abandoned



to his natural resources man could never attain eternal life—the beatific vision. And, in reference to this doctrine, the voice of reason itself coincides with the teaching of authority. For, as the philosophers say, “*actio non protendit, extra spheram suæ activitatis* ;” something then, beyond the natural powers of man must be necessary to compass a supernatural end—an end which, we know from its very definition, is disproportioned to man’s ability—as it is above his requirements. But believing all this most firmly and most reverently, believing that if abandoned to his mere natural resources man could never have Divine Faith, nor the beginning of Faith, nor perform any work of itself conducive to salvation, we may still be permitted to inquire how it can thence follow that where there is question of the natural exercise of its faculties, the mind has not received from its Almighty Creator, the gift of independent action and the power of origination? How can it thence follow that for its ordinary natural functions, the intellect requires, over and above the essential *conservation* and *concursus* necessary for action in all contingent things—a special help, analogous to the prevenient and concomitant grace required for supernatural works?

We can merely glance at the historical argument dwelt upon at great length, and with surpassing power by the Bishop of Arras.

History is a kind of double mirror which reflects at once the free agency of man, and at the same time the controlling, overruling, all-pervading, Providence of God. History then, or experience, is, perhaps, the safest guide in directing even the metaphysician to a knowledge of the laws and conditions under which the intellect uniformly acts. It is easy to speculate and theorise *a priori* ; but, in such speculations, the affirmation of to-day may be encountered with denial to-morrow. It is exceedingly difficult to say how God *might*, or *might not* have created the human mind—or what gifts He might or might not have absolutely bestowed upon it. The man who morbidly follows up such inquiries, makes nature pass through a crucible—and emerge in whatever form may best approve itself to his own subtle apprehension. Even here, then, a fact is worth a thousand theories, and the light of history the serenest and truest guide. And what does history say of the relative claims of Tradition and Reason? What is the place,

the rôle which she respectively assigns them? Everywhere history represents reason as dependent, subordinate—infirm, fallacious—always kept in the back-ground, while Tradition is everywhere paramount and supreme. A brief survey of the formation and progress of Society suffices to attest this.

We shall not dwell upon the history of Adam, though the inspired narrative is so clear upon it. We cannot, however, overlook another of those remarks made by Mgr. Parisis in reference to it, which, with all respect, we must consider fanciful.

“Adam,” he says, “had been alone when God accorded to him the right of eating of the fruit of all the trees in Paradise, except one, and prohibited him to eat of the fruit of that one. However, when Eve is tempted by the devil, what is her reply to him? *De fructu lignorum qui sunt in paradiso vescimur; de fructu vero ligni quod est in medio paradisi præcepit nobis Deus ne comederemus, ne forte moriamur.* How then could she have so well known the command of God which she had not herself directly heard from Him, if it had not been transmitted to her by Adam? and why should it have pleased God thus to address His command immediately to the first man, and not to the first woman, unless with the view of consecrating from the very beginning, the law of Tradition?”—p. 51.

The history of the Jewish nation affords a remarkable illustration of the preeminence of Tradition, and of the secondary and insignificant part which Reason was allowed to assume in the administration of the affairs of the chosen people. We do not now speak of the religious life of the Jews. This, it is manifest, depended altogether upon Tradition, upon the promise of a Redeemer to come. The words addressed to the serpent, *et ipsa conteret caput tuum*, words so gloriously verified in the person of the Blessed Virgin, contained a promise more explicitly repeated to Abraham; and on this promise, as on its centre, turned the whole religious existence of the people of God. It was the great hope of the Patriarchs, the constant vision of the Prophets, and the burden of their loftiest inspiration—it alone gave light to the Sanctuary and majesty to the Temple—it imparted virtue to the sacrifices—a meaning to the ceremonies—a reality even to the shadows—the naked and empty elements which prefigured a better Testament. But if we examine the social constitution of the Jews, we shall find that Tradition is everywhere equally predominant, equally supreme. Thus the Judiciary and penal

laws ; (Exod. cap. xxi., *et seq.* Lev. xv. *et alibi*) the laws of hygien, for instance, laws concerning leprosy, in men and garments (*Lev. xiii. et alibi*) the laws regarding property and debts (*Lev. xx. 5. de Ann. Sabb ; Num. xv.*) though plainly of a temporal or civil character, are all dictated by God Himself. With the formation of these laws, Reason had nothing to do ; it was not empowered to alter or modify them, but simply to accept, to understand and to obey them. In fact, there was not a single point connected with the social government and administration of the Jews, that God Himself did not regulate and adjust. If war is to be waged against the enemies of the chosen people, God specifies the conditions, and prescribes the mode of battle (*Deut. xx*). He orders the formation of the Cities of Refuge, that they may afford an asylum to him who is forced to flee for manslaughter (*Deut. xix.*) ; even the use of the silver trumpets, and the import of their sounds He does not leave undefined. “ If thou sound but once the princes and the heads of the multitude of Israel shall come to thee. But if the sound of the trumpets be longer, and with interruptions, they that are on the east side shall first go forward ” (*Numb. x. 4, 5.*). Thus we see that even in the minutest and most insignificant details, human intelligence takes not the initiative, but abandons itself completely to the direction and control of God.

Such in substance is the argument from the history of the Jewish people, advanced by Mgr. Parisi, in favour of Traditionalism. He has adorned it, however, with a copiousness of illustration from the Sacred narrative, as well as with a singular felicity of expression, which greatly enhance its intrinsic force. But as to the cogency of the argument in deciding the question under discussion, we are again, but always with unfeigned deference, compelled to dissent from the illustrious author. Whatever may have been the secret designs and counsels of God in making the civil constitution of His chosen people a theocracy, or divine form of government, it cannot be disputed that the history of that people was *exceptional*, and their government dissimilar to any other temporal government. God may have wished that their constitution should serve as a model or pattern for other less favoured nations, particularly with regard to soundness of religious belief, purity of moral laws, justice of legislation ; but there is not a

shadow of evidence to show that human sagacity itself, without having this more exalted model before it, might not have invented a just and wholesome form of civil government, a form which should induce future ages to look back for ever with gratitude, and reverence the memory of the legislator.

But the value of Tradition, and the imbecility of Reason may be illustrated without our going back to the ancient history of the chosen people. The history of France and of England, two great, two neighbouring, two rival states, furnishes a no less significant lesson on this head than do the annals of the people of God. France in religious matters has always firmly clung to tradition; since the Revolution she may be said to have lost sight of tradition in politics and social government. England on the contrary has always adhered with a dogged tenacity to her social traditions, while in religion, since the establishment of Protestantism, she has affected to ignore and despise tradition. What is the consequence? France is still the eldest daughter of the Church, the true faith still holds undiminished sway over that sunny land, and no country in the world has evinced more zeal in bringing the light of the gospel to foreign nations, to those who sit in darkness and in the shadow of death. But in a religious point of view, what is England? Who could recognise in it the land where Augustine preached, or Bede wrote, or Edward ruled? The state of Westminster Abbey is typical of the religious state of the country. The cloisters silent, the monks departed, the voice of prayer unheard, a dreary desolation pervading the whole, nothing left but a wretched, heartless mockery of state worship. In like manner outside the temple, faith is dead, on all around we see the elements of dissolution. If a sign of life be discernible it is only in the violence of internal conflict and dissension, to-day in the heat of the Baptism-controversy, to-morrow in law-appeals regarding the confessional. "These are spots in their banquets, clouds without water, which are carried about by winds. Trees of the autumn, unfruitful, twice dead, plucked up by the roots, raging waves of the sea, foaming out their own confusion, wandering stars."\* The greater part of England is overspread

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\* St. Jude.

by a moral miasma : the gross ignorance of millions, even with regard to the primary mysteries of religion, the murders, infanticides, divorces, universal mammon-worship, remind one of the depths of iniquity into which the worst pagan nations had ever been plunged.

But, on the other side, if we consider the political history of France and England, the picture is at once reversed. England is justly proud of her institutions as far as their operation is restricted to England proper. The very name of the constitution acts like a talisman upon the true English mind,—and there is no Briton who would not gladly defend that constitution with his life. And yet if we look for an explanation of the perfection which undoubtedly characterizes the English constitution, we shall find it in the people's instinctive abhorrence of sudden, violent changes, in their wholesome spirit of liberal conservatism, in their loyal adherence to the traditions of the past. The broad foundations, the mighty bulwarks of English liberty, all date from Catholic times, and the progressive improvements made in the course of events, were grafted on a stem naturally fitted to admit and nourish them. Hence the ark of the constitution has ever been held inviolable in England ; and the spirit which animated the barons when, on a memorable occasion, they exclaimed that they would not brook innovation, not only lives in the breasts of their descendants, but pervades the entire nation. Reverence for the past, then, has been the main cause of the freedom, and happiness, and glory of England. It has, unfortunately, been otherwise with France. At the time of the Revolution, the old landmarks were effaced, and the great venerable spirit of antiquity came to be treated, not with reverence, but with mockery and scorn. The consequence has been, that a generous, gallant, and enlightened people has gone through a series of national calamities almost without parallel. The evils thus entailed upon France by a forgetfulness of traditionary wisdom were foreseen from the beginning by Burke, with an accuracy almost prophetic, and described by him in that immortal work which is a lucid digest of all political philosophy. By him they are all ascribed to the fact that the originators of the Revolution, were resolved to create the constitution *de novo*, and regard France as if she had no past history : otherwise such wild theories, such insane projects, could not have found favour among them, for

“always acting in the presence of canonized forefathers, the spirit of freedom leading in itself to misrule and excess. is tempered with an awful gravity.”

We have now indicated, at least, the bearing of Mgr. Parisis's argument in favour of Tradition. The consequences which he deduces from the doctrine, as well as the arguments on the other side, put forward by the Antitrationalists, we are compelled to reserve for a future number. Meantime we may remark that with such warmth was the discussion regarding the relative claims of Tradition and Reason, conducted in France and in Italy, that the Congregation of the Index has judged it expedient to issue the following among other decisions on this subject. They were approved by his Holiness Pius IX., on the 15th of June, 1855, and ordered by him to be published:—

“1. *Etsi fides sit supra rationem, nulla tamen vera dissensio, nullum dissidium inter ipsas inveniri unquam potest, cum ambo ab uno eodemque immutabili veritatis fonte, Deo optimo maximo, oriantur, atque ita sibi mutuam opem ferant.*

“2. *Ratiocinatio Dei existentiam, animæ spiritualitatem, hominis libertatem, cum certitudine probare potest. Fides posterior est revelationi, proindeque ad probandam Dei existentiam contra Atheum, ad probandam animæ rationalis spiritualitatem et libertatem contra naturalismi et fatalismi Sectatorem, allegari convenienter nequit.*

“3. *Rationis usus fidem præcedit, et ad eam cpe revelationis et gratiæ conducit.*

“4. *Methodus quâ usi sunt D. Thomas, D. Bonaventura, et alii post ipsos scholastici, non ad rationalismum ducit, neque causa fuit cur, apud scholas hodiernas, philosophia in naturalismum et pantheismum impingeret; proinde non licet in crimen doctoribus et magistris illis vertere, quod methodum hanc, præsertim approbante, vel tacente ecclesia, usurpaverint.*”

With these decisions before him we shall, for the present, leave the reader to form his own conclusion on the question at issue.

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- ART. IX.—1. *Gosselin's Temporal Power of the Popes.* London: Dolman, 1853.
2. *Whiteside's Italy.* London: Bentley, 1848.
3. *The Quarterly Review* for July, 1856.
4. *The Edinburgh Review* for April, 1859.
5. *Letter of Signor Farini to Lord J. Russell, upon Italy.* Turin: 1859.
6. *Ranke's History of the Popes.* London: Bohn, 1853.
7. *Rome, its Ruler and its Institutions.* By F. Maguire, M.P. Second Edition. Longmans, 1859.
8. *The Temporal Government of the Holy See.* By Dr. Miley. Dublin, 1858.
9. *The Roman States, from 1815 to 1850.* By L. C. Farini. Translated under the direction of the Right Hon. W. E. Gladstone. London: J. Murray, 1854.
10. *Italy; its condition.* Letters to Lord J. Russell. By an English Liberal. London: Ridgway, 1859.
11. *Commentaries on Public Law.* By George Bowyer, D.C.L. London: Stevens and Norton, 1857.
12. *The Statistics of the Italian Cities.* By George Bowyer. London: Stevens and Norton.
13. *Blackstone's Commentaries.* By Ker. London: Murray, 1858.
14. *Westlake's Conflict of Laws.* London: Maxwell, 1859.
15. *A Letter to the Earl of Shaftesbury on the Present State of the Laws which regulate Private Lunatic Asylums; with a comparison of the state of the Law in France and in England as regards the process de lunatico inquirendo.* By Edward J. Seymour, M.D., F.R.S., late Senior Physician to St. George's Hospital. London: Longman and Co.
16. *The Rise and Progress of the British Constitution.* By Professor Creasy. London: Bentley, 1855.
17. *How we are Governed.* By A. Fonblanque. London, 1859.
18. *Bright's Speeches on Parliamentary Reform.* London: Judd and Glass, 1859.
19. *Alison's History of Europe.* London: Blackwood.
20. *Coup d'œil sur l'Angleterre.* Paris, 1855.

FEW perhaps are aware how modern is that hostility to the temporal dominion of the Holy See, as to which we now hear so much. It is a most remarkable fact, which has not escaped the penetration of Ranke, that even in



the fifteenth century, that age of declining reverence for the spiritual authority of the Holy See, men by no means disapproved its temporal dominion; on the contrary, authorities the most hostile to it acknowledged its necessity, and even appeared confirmed in their convictions by experience. Thus, as Ranke tells us, in his *History of the Popes* (chap. xi.) "The temporal sovereignty was in accordance with the temper and direction of the age." "I had once thought," remarks one of the speakers at the Council of Basle, "that the secular power should be wholly separate from that of the Church; but I have now learned that virtue without force is but slightly respected, and that the Pope, without the patrimony of the Church, would be merely the servant of kings and princes."

History shows that the Popes had temporal dominion thrust upon them a thousand years ago, on account of the confidence which the Roman people felt in their wisdom and capacity for civil rule. And the experience of ten centuries has abundantly attested it. Ranke describes the condition of Rome and the Roman States when the Popes returned to it after that long exile, which the Italians themselves called the Babylonish captivity. This exile may be said to have lasted almost a century and a half, from the ill-omened opening of the thirteenth century to the middle of the fifteenth. Here history affords us an opportunity of testing the value of the Pontifical dominion in Italy.

"In 1443," says Ranke, "when Eugenius IV. returned to Rome, the city was become a mere dwelling of herdsmen; her inhabitants were in no way distinguished from the peasants and shepherds of the surrounding country. The hills had been long abandoned, and the dwellings were gathered together in the levels along the windings of the Tiber; no pavements were found in the narrow streets, and these were darkened by projecting balconies, and by the buttresses that served to prop up one house against another. Cattle wandered about as in a village. The memory of antiquity was fast sinking; the Capitol had become 'the hell of goats;' the Forum Romanum was the 'cow field.' The church of St. Peter was on the point of falling to pieces." (B. iv. c. 1.)

This was the state in which the Popes found Rome at the era of their return to it in the middle of the fifteenth century. How did they use their restored power? Let Ranke tell us.

"When Nicholas at length regained the allegiance of Christen-

dom, and had become enriched by the offerings of those pilgrims who had flocked to Rome, he determined to adorn the city with buildings, that should compel all to acknowledge her as the capital of the world. To effect this, however, was no work for the life of one man; *the Popes succeeding him also laboured at it for centuries.*" (Ib. sec. 8.)

And the Lutheran historian shows how successfully. And against what terrible difficulty.

The fierceness of the rival factions in Italy may be seen pictured in the poetry of Dante or the history of Ranke.

"These divisions," said the latter, "reigned even in the smallest villages; a man would not have spared the life of his brother had he belonged to the opposite faction, and some were known who had destroyed their wives that they might be at liberty to marry into families of their own party. The factions took the administration of justice into their own hands; certain persons who had been condemned by the tribunals they declared innocent, and liberated by breaking open their prisons. Their enemies, on the contrary, they sought in the same place and by the same means, but it was to place their heads around the fountains, where on the day following they were to be seen."

What a task to achieve peace among such a people! Yet such a task the Pontiffs *did* achieve. And towards the close of the sixteenth century it was, says Ranke, "a matter of pride and rejoicing to the Pope, when ambassadors arriving at his court assured him that in every part of his states through which their road had led, they had travelled through a land blessed with peace and security."

And then as to the condition of the people. "The States of the Church," says the historian, "were unquestionably less burthened with imposts than any other, and Rome, as compared with other cities, was equally fortunate as to the amount of taxation." A secretary of Clement VII., alluding to the factious spirit referred to, expresses, says Ranke, his surprise that the Roman people were not more devoted to the Holy See, considering the lightness of their burdens. "From Terracina to Placentia," he exclaims, "the Church is in possession of a broad and fair portion of Italy; her dominion extends far and wide; yet all those flourishing lands and rich cities, which under any other sovereign would be burthened for the support of large armies, pay no more to the Popes than just so much as will meet the expenses of their own administration." And Ranke adopts this testimony.

He and Roscoe describe the peace and prosperity which Italy had attained at the era of Leo X.; and if Lorenzo de Medici contributed to it, as no doubt he did, it was merely by keeping in check those rapacious states which were always seeking to ravage and spoil the dominions of the Church. And if his death was a signal for a new era of misery for Italy, it was because princes set at nought the Papal authority, because Charles of Germany repeated the invasions of Charles of France, and within seventy years of the Pope's return to Rome it was sacked by the troops of a Catholic emperor. Was ever a more terrific shock to a state? Was ever a sovereign more cruelly beset than the Pope? Had one ever to rule under greater difficulties? Yet the Popes, after the storm had passed, restored Rome, and gave peace to Italy. What the Roman States were under their rule let their enemies describe. "The writers of the sixteenth century," says Ranke, "can find no words that suffice them to extol the fertility of the Papal territory. How fair are the plains around Bologna and through Romagna. How brightly did a rich productiveness combined with beauty adorn the slopes of the Apennines." "We travelled," say the Venetian ambassadors, in 1522, "from Macerata to Tolentino, through a district of surpassing loveliness. Hills and valleys were clothed with grain through an extent of thirty miles; nothing less rich could be seen. Uncultivated land we could not find for the breadth of a foot. We thought it impossible to gather so vast a quantity of corn; how, then, shall it be consumed?"

Venice was supplied from Romagna, while Genoa, and sometimes Naples, were from the territory of Viterbo and the Patrimony. In one of his bulls for 1565, Pius V. exalts the divine favour, "by whose permission Rome, formerly unable to subsist without foreign corn, had now not only abundance for herself, but could also come in aid of her neighbours, and even of foreigners by land and sea, with the produce of her own Campagna." In 1589 the exports of corn from the states of the Church were estimated at the annual value of 500,000 scudi. Ancona possessed a flourishing trade. "It is a beautiful place," say the same ambassadors of 1522, "full of merchants." And in 1542 there were 200 Greeks settled there as merchants, who had a church of their own. It was not only on the commercial readiness and activity of the Papal subjects, but on

their bravery, that writers of that period loved to dwell: "The whole population," said one of the Venetian ambassadors, "is apt for the uses of war." In 1570, an Italian writer says, "As to soldiers, it is generally believed that those of the Papal States are the best in Italy." So another, cited in Ranke, 1586, "The states have abundance of warlike men; they seem all born for war, and are quickly brought together by the beat of the drum." Here we see the old martial spirit of Rome, so marking out the Romans as the natural lords of Italy. But unfortunately this very spirit made them impatient of the mild rule of the Pontiff. And this is very truly and fairly pointed out by Ranke. "In all countries, but more especially in one of so pacific a character as that of the Papal States, obedience to the government is based on voluntary subordination." And then he describes how, after the Popes had restored tranquillity, the land seemed to remember how warlike and how unfettered in its parties it had been. "It began to feel contempt for the government of priests, and returned to the condition most natural to it," i.e., one of constant strife and fierce faction; which ultimately proved the ruin of Italy.

"These rich and populous territories," continues Ranke, "with their brave inhabitants, were now subjected to the peaceful and spiritual government of the Popes. Let us examine the basis and organization of this ecclesiastical state as it developed its resources under their rule." And then he proceeds to point out how much of freedom the Papal government secured the cities, and draws a parallel between the Roman and the Venetian rule, in favour of the former. "The towns," he says, "retained not merely the forms of municipal independence, but many of the essential attributes." This was in the fifteenth century. How was it then in our own country? "The towns of Romagna were seized," he says, "by Julius II. during the Venetian war," (the truth being that they were retaken by the Pontiff, having been rapaciously seized by the Venetians,) "but he did not annex a single one to the Pontificate without first consenting to restrictive conditions, or conferring new and fixed rights, and these stipulations were always referred to in later times. The political relation with the Church into which they had entered by these treaties, received the title of Ecclesiastical Freedom."

“ Thus constituted, the state, as a whole, bore a certain resemblance to that of Venice. In each the political power had at one time resided in the commune, and this had for the most part subjected smaller communities. In the Venetian States these paramount municipalities had submitted to the control of the *nobiles* of service. In the states of the Church, to the commonwealth of the Curia.”

Observe what he adds as to lay government.

“ The dignity of the prelacy was not absolutely indispensable as a qualification even for the supreme powers of the municipalities ; secular vice-legates were frequent. In Romagna it seemed to be almost an established rule that a lay president should direct the administration.”

It is in the pages of the Protestant Ranke we read how, at the close of the sixteenth century, the Pope was told by ambassadors arriving at his court, that in every part of his states through which their road led they had travelled through a land blessed with peace and plenty, how in the States of the Church the people were less burdened with imposts than any other, and how the Venetian ambassadors could not sufficiently describe the fertility and prosperity of the Roman States. The same, and other Protestant historians, for instance, Napier, in his admirable *History of Florence*, describe the furious factions of the Italians, and that fierce spirit which they engendered, and their natural tendency to arms. And Ranke very fairly traces to this cause the discontent of the Romans with priestly rule, and as fairly traces to the ambassadors of Venice a hostile state, the first ideas of the “ misgovernment ” of the Roman States, just as other historians clearly trace to the enmity of Florence certain gross slanders on the characters of certain Pontiffs of that age. But how remarkable what immediately follows :

“ At this period the towns would seem to have had no liking for secular governors, they preferred and requested to be ruled by prelates, holding it more honourable to obey an ecclesiastic of high rank.”

Whence we may gather that at this, the palmiest era of Italian prosperity and independence, there was not only no prejudice against ecclesiastical rule, but actually a preference for it ; we know that it was so generally in Europe during the Middle Ages, as the mediæval maxim shows, “ it is better to live under the crozier than under the lance.” And there were special reasons for it in Italy,

the Popes being the true champions of Italian independence, liberty, and nationality. Ranke remarks of Julius II. that it was his ambition to present himself as the liberator from tyranny, and records, as we have seen, the most practical proofs of it. And Roscoe, speaking of the same great Pontiff, says:

“His ambition was not the passion of a grovelling mind, nor were the advantages which he sought to attain of a personal or temporary nature. To establish the authority of the Holy See throughout Europe, to recover the dominions of the Church, to expel all foreign powers from Italy, and to restore the country to the dominion of its native princes, were the grand objects of his comprehensive mind.”

In suppressing the Vicars of the Church, adds Roscoe, and uniting their territories to the Holy See, he completed what Alexander VI. began, but without incurring an equal degree of odium; for the obvious reason, that his predecessor had borne the *brunt* of the work, and he reaped the fruit. Roscoe represents this suppression of the Vicars, who really arrogated sovereignty, and perpetrated the grossest oppressions, as a restoration of the dominion of the Holy See; as it truly and plainly was. And then Ranke tells us how delighted the Italian cities were to be under Papal rule. They had ample opportunities of judging, for in those turbulent times they were sometimes under some other rule, as for example, the Venetian. Hence the comparison Ranke institutes between the Papal rule and the Venetian, to the advantage of the former. Thus, he says, that the Roman authorities enjoyed a more extensive freedom of action, and proceeds to show that the Papal Government had a larger degree of authority.

“Of this fact we find convincing proof by a comparison of the concessions made to the municipalities of Rome and Venice. A favourable opportunity presents itself in the case of Faenza. This city, which had capitulated to Venice some years before its surrender to the Ecclesiastical States, had made conditions with each government. It had, for example, demanded from both that no new imposts should be laid on them, but with consent of the majority in the Great Council. To this the Pontiff added the clause, unless it shall appear to him advisable to do otherwise for good and sufficient cause.”

“The Venetians had assented to the demand that all criminal judgments should be referred to the podesta and his court (Curia).



The Pope confirmed the privilege in its general import, but made the important exception, 'In cases of high treason or of similar crimes calculated to cause popular irritation, the authority of the governor shall step in.' "

This is exactly analogous to our suspensions of the Habeas Corpus Act, in times of popular commotion. And it is to be observed that it cannot matter in principle whether such a power is granted on each occasion, or is made originally part and parcel of the constitution. It is remarkable that Ranke sees nothing in these reservations of sovereign authority except proofs of superior efficiency in the Papal Government.

"It is obvious that the Papal Government assumed from the outset a much more effective exercise of the sovereign authority than that of Venice." It is notorious that practically the Papal Government never established such a social tyranny as the Venetian oligarchy. And Roscoe somewhere draws a similar parallel between the rule of Ferrara under the House of Este, and that under the Popes.

Ranke gives another example :

"When the city of Fano placed itself under the immediate sovereignty of the Papal See, in 1463, it made certain conditions ; first, that in all future time the city should *hold immediately* of the Papal throne."

And again :

"Immediately after the accession of Leo X. the Florentines, who had obtained a large share in the administration, exercised the rights of the Curia with the most oppressive violence. Deputations from the cities were sent, to arrive in Rome, one after another, entreating relief from their burdens. During vacancies of the Pontificate it frequently happened that the ancient feudal lords would return to power, and were not expelled by the new pope without considerable difficulty. The cities on the other hand *dreaded the being alienated from the Papal See.*"

It is impossible to maintain, in the face of these facts, and these impartial authorities, that there is anything necessarily vicious in a system of Papal rule ; seeing that the best days of Italy were owing to it, and that the Italian cities preferred it to the rule of temporal lords, or the government of the most celebrated states.

See again, towards the close of the sixteenth century, how Ranke speaks of the Papal rule.



“The administration of Sixtus V. was most remarkable. His ordinances permitted no respect of persons. No disturbances were existing. He punished the rebellious feudatories, but as earnestly set himself to conciliate the great body of the nobles. He instituted in Marcerata a supreme court of justice for the whole province. The college of advocates he distinguished by new privileges. The communes of the March of Ancona were encouraged to build houses. His solicitude was extended in different degrees to the several cities of all the provinces. He made arrangements for preventing the increase of their debts; he caused a strict enquiry to be made into the management of their finances, and made regulations, of various character, but all conducing to restore the lost importance and well-being of the commoners. Agriculture was equally indebted to his reign; he undertook to drain the Pontine marshes, and the river Sixtus, which, until the time of Pius VI. was the last attempt made, was cut by his command. Neither was he negligent with regard to manufactures.”

Nor was this said of one or two Pontiffs only. On the contrary, it is on the whole the character which Ranke gives of all the Popes since the sad schism of the “Reformation.” Making a little allowance for prejudice, here and there, his portraiture of them, on the whole, is creditable to himself, and favourable to them. Thus he immediately adds:

“We must not attribute dispositions of this kind to Sixtus alone; this would be unjust to his predecessors. Agriculture and manufactures were favoured by Pius V. and Gregory XIII. also. It was not so much by the adoption of new paths that Sixtus distinguished himself from earlier Pontiffs, as by the energy and activity with which he pursued those on which he had already entered.”

And then, in a note, he adds to his statement as to the communal government:

“These arrangements were the commencement of a better state of things among the communes of the Ecclesiastical States, which recovered the more readily because Clement VIII. continued these judicious measures.”

The historian has a chapter on the architectural labours of the Popes, under which Rome was in progress of restoration during the whole of the sixteenth and seventeenth centuries. Then he goes on to speak in the highest terms of “the Curia.” It was formed, he says, of the most distinguished men, “who possessed the art of governing with address,” and were versed in “state affairs.”

Does this look as if ecclesiastical rule were necessarily bad?

“The Curia was not an ecclesiastical institution only, it was a political government also, and had indirectly to rule a large part of the world in addition to its own state.”

Omitting observations obviously inspired by the natural prejudices of Lutheranism, Ranke speaks with candour on this subject. And he shows sensibly enough that municipal institutions, rather than political, suited the spirit of the Italians.

“It is a striking fact that the establishment of provincial governments was in no one instance adopted in Italy; certain provincial assemblies were indeed held in the Papal States, and even received the imposing name of parliament; but there must have been something adverse to institutions of this character in the manners or modes of thought of Italians, since no one of them ever attained to effectual or enduring influence.”

And, as we have seen, he compares the ‘Curia’ to the Venetian Senate, but to the advantage of the Curia. And he tells us “that persons came to Rome believing that they found more liberty there than elsewhere.” He goes on to say, “In this court there was no position so eminent but the most obscure individual might aspire to fill it. Each man believed himself capable of all, and fitted for everything.”

Hence, as he truly observes, it “was a remark often made in those days, and a perfectly just one, that there was a sort of republicanism in the character of the Prelacy and Curia; which consisted in the circumstance that all might aspire to all, examples being continually presented of men whose origin was most obscure, attaining to positions of the first eminence.” It is obvious indeed that the Papal Government possesses, in a greater degree than any other, the advantages of the hereditary and elective systems of government, or rather it is the only one in Europe which unites both, the stability of the hereditary with the freedom of the elective. It is impossible that there can be any long vacancy, or uncertainty as to the successor; he is nominated immediately by a permanent body; on the other hand he is nominated by choice; by the choice of a body of men the most sensible in the world, a choice made with the most perfect knowledge, and certain to fall on already of long established reputation, and of matured

wisdom, and the fittest for the particular crisis of the times.

This being so, how was it, and when was it, that the cry arose or the prejudice was created against Papal rule? The Lutheran historian furnishes us with the answer. He shows that the prejudice was the result of the cry. And that the cry was raised by the enemies of the Holy See, and for the purposes of insidious encroachments and oppression upon its territory. It was raised by those who were envious of its prosperity. He tells us that it is in the letters of the Venetian Ambassadors in the middle of the seventeenth century, that we first find the expressions which have since become so current about the inefficiency of the Papal Government. The Venetian Ambassadors; the very men who, not long before, were writing to their masters of the wondrous wealth and prosperity of the Papal States! Aye, there was the real origin of the "cry." Not the bad government, but the good government of the Papal States gave rise to it. Not pity, but envy. Not misery but prosperity. Venice and Florence, then rival states, and other countries were equally jealous of Rome, and lavished abuse upon the Roman Pontiffs. Their ambassadors first calumniated Papal rule.

"The Italian States had long felt jealous of the repeated extensions given to the ecclesiastical dominions;" which extensions, be it observed, as already shown from Ranke himself, [were simply restorations. It was, he says, "in the time of Urban VIII. (1630) that the Ecclesiastical States first attained to the completion of their territorial possessions." "At the time Ferrara was taken into the Papal possession, it seemed certain that Urbino must lapse to the Roman See, as there were no natural heirs." It will be observed that Ranke evidently implies that it must lawfully and rightfully lapse, as undoubtedly it did. He then goes on to tell how offended the Venetians were at this, and how they resolved to resist. And then, he says, "very soon there might be heard throughout the duchy those complaints which the government of priests invariably called forth." Invariably called forth! Why here the historian forgot what he had himself written in a former volume, that the Italian cities preferred Papal rule. But the truth is, he took the Venetian account of the matter, and used the phraseology of Venetian writers. Indeed, he quotes in a note, the words of Contarini, the

Venetian Envoy. "The subjects complain bitterly of the change, they call the government of the priests a tyranny." Did they? Did they think the government of the Venetian oligarchy no tyranny? We doubt it; we wholly disbelieve it; we believe on the contrary that their pretended complaints were simply the result of Venetian intrigues. Just like Sardinian intrigues in our own times—as we shall shortly see.

The Venetians, with allies, made war upon the Pope,—and then was repeated, says Ranke, "that contest between the French and Spanish (or Roman) interests, which kept Europe in commotion." The Pontiff was forced to yield; his revenues were exhausted by the war. The European sovereigns abandoned him to his unprincipled assailants. This was the commencement of the modern cry against Papal rule. Ranke thus describes it.

"Thus, the Papal See had been forced to retreat from the position it had occupied at the central point of European affairs, and suffered a defeat in those of Italy, and even the confines of its own States, exceeding any that had been inflicted on it for a long period."

This was just at the middle of the seventeenth century. We appeal to the testimony of the Lutheran historian, whether the Papacy was responsible for the decline of its authority. On the contrary, he speaks in the highest terms of the successors of Urban VIII. But he shows the decline resulted from the oppression of foreign powers on the Papacy. Thus he had already remarked of Urban VIII. "The House of Austria powerfully restrained the Pope," and it was with the encouragement of Austria the proud Venetian oligarchy ventured to assault him. The historian describes how the effect of this foreign influence was felt under Alexander VII., and Clement IX., in the interference of foreign prelates with Papal rule. He quotes the Secretary of Alexander, "I perceived that he had only the name of Pope, not the command of the Papacy." And so under Clement IX., he shows how the Papal Sovereign was restrained by a powerful aristocracy.

Having reached this era, he makes a review of the progress of Rome, whence he arrives at the conclusion that it owed all its wealth and prosperity to the Papal rule. He shows that the population had steadily increased,—and he goes on to say—

“After the *return of the Popes* from Avignon, and on the close of the schism, the city, which had seemed on the point of sinking into a mere village, extended itself round the Curia. But it was not until the Papal families had risen to power and riches, until either internal discords, or external enemies were no longer to be feared, that a numerous permanent population arose in the city. Its prosperity and possessions were always dependent on the importance of the Church and court. It was under the influence of that power and efficiency to which the Roman See had attained, that the Capital revived its essential character and magnificence. Thus, also, were those Roman families founded which are flourishing to this day. From the time when the extension of the spiritual dominions ceased, the population no longer continued to extend. It was a creation and product of that period. The modern city belongs to that period of Catholic restoration.”

To the last (save an expression or two borrowed from the invidious emissaries of Venice) it is most remarkable that the Lutheran historian has no case to make against the character of Papal Government. On the contrary, the whole current of his history is in its favour. And another thing very remarkable to be gathered from his history, is, that there is no necessary antagonism between Papal government and lay rule. On the contrary, as we have seen, while on the one hand, the palmiest period of Italian prosperity, was the palmiest time of Papal rule, at that same period the Papal Government made free use of lay administration.

It is obvious then, from the impartial testimony of Ranke, that we must find in other causes than the character of Papal rule, either the source of any decline of authority or prosperity, or of any jealousy of lay administration. And from that same testimony, we have no difficulty in detecting the two causes, viz., *foreign oppression and intrigue*.

“The Papacy,” he says, “was thrown back upon itself by internal discords, and by opposition from without;” those discords arising from the same sources as the opposition from without. He goes on to show how the attack upon the temporal dominion of the Papacy was “connected with the division of the Catholic world into two adverse portions, the Austrian and French parties, which the Popes had no longer power either to overrule or to pacify.”

Here is the key to the whole question. Here is the true

origin of the Papal "difficulty." Every fact of subsequent history (as we shall show) attests it.

The historian traces the struggle between the Papacy and arbitrary power in France, under the Bourbons. And he shows how the fault could not have been on the side of the Pontiffs at this period, for he describes them in the highest terms of eulogy. He also shows, what can scarcely be concealed from the most careless observer, how these struggles tended, by the intrigues which they occasioned, to weaken the Papal rule. And so of Austria. He shows how the Popes had to encounter imperial oppression.

"At this time, not only had German Austria established herself in Italy, while in a state of almost open warfare with the Pope, but even the Duke of Savoy had attained to royal power, and a large extension of territory, in defiance of the Papal opposition."

It is remarkable that in its very origin, the royal house of Savoy was hostile to the Papacy, and may be said to have risen in rivalry, and on hopes of the ruin of its Italian supremacy. Hence there has been, on the part of that house, a spirit of perpetual and insidious aggression and intrigue directed against the temporal rule of the Papacy; using either Austria or France for its purposes, as the occasions might suggest, or as opportunity might serve. And to this more than to any other cause, except the kindred causes of the French Revolution and the Josephist despotism in Austria, are to be ascribed those intrigues in Italy and those discontents and disturbances which are, with such entire ignorance of history, attributed to Papal misgovernment. A contemporary well observes:

"But in the next half century, the firm arm of Napoleon worked deadlier mischief than the intrigues of Alberoni. The Lutheran historian describes how Italy was revolutionised in 1796. 'Revolutionary States arose in all directions: the Pope was already threatened by them, not only in his territories, but in his capital also.' 'His States were invaded, his people incited to revolt; exorbitant contributions, such as he found it impossible to raise, were forced upon him,' and his temporal sovereignty was, in a word, ultimately abolished.' And hence at the early part of the present century, when Napoleon grasped empire, 'the revolutionary power was again triumphant,' says Ranke, 'and obtained a decided preponderance in Italy.' The Pope he represents as allowed by the Emperor 'to retain a seeming possession of power.' At last he was deprived even of that. 'The Concordat of Fontainebleau in 1813, was arranged,' says Ranke, 'on the understanding that he should



no more return to Rome.' It is remarkable that even the Lutheran historian appears to have been shocked at the result which, he says, must have ensued had this state of things continued. 'The Papal authority would have become an instrument in the hands of the new dynasty at all times. The Papacy would have returned to the position which it held with regard to some of the German Emperors, but would have been subjected to much heavier bonds. In this there was something that directly contradicted the essential principles of the Church. It was a spirit of opposition to ecclesiastical influences which had made itself manifest in so determined a disposition to positive infidelity. To this malignantly hostile power the Papacy would have been subjected, and placed in a state of vassalage.'

And let it be observed, that these views were adopted by English statesmen at the Treaty of Vienna: as we read in the pages of Alison. And as, on the one hand it was to English statesmen that the Holy See owed its restoration, so ought Englishmen not to forget that the excuse for its establishment was its refusal to unite in the league against England. It was not in vain that the Pope reflected, that of all the European powers, Protestant England was almost the only one which had never entered upon any aggression against Rome. Nor was it in vain that English statesmen saw the certain results of the subversion of the Papal Sovereignty.

What said Napoleon of it? "I would have directed the religious world as well as the political." In a word, it would have made him absolute master of the continent. Alison too, saw this, and quotes Bossuet, to confirm the prescience of Buonaparte:—

"Bossuet has assigned the reason, with his usual elevation of thought, why such a spoliation of all the possessions of the Supreme Pontiff, by a secular power, must ever be prejudicial to the best interests of religion. 'God has chosen that the Church, the common mother of all nations, should be independent of all, in its temporal affairs, and that the common centre to which all the faithful should look, should be placed in a situation above the partialities which the different interests and jealousies of states might occasion.' And Alison adds, 'The subjection of the Supreme Pontiff to the direct control of France or Austria, is as fatal to the character and respectability as the control of the rural congregations is to the utility of the cottage pastor. It will ever be the great object of tyranny, regal or democratic, to tread down the central independent authority.'

Memorable words! very recently and remarkably veri-



fied. So thought British statesmen at the time of the Treaty of Vienna. So thought British statesmen ten years ago, when the Sovereign Pontiff, imprisoned by an insolent faction, sought refuge in flight.

The mode in which Napoleon I. viewed the Papal states was precisely that in which ever since, the French have intrigued to secure the same object, latterly, with the aid of Sardinia. The Directory in 1797 wrote thus: "They trust to General Bonaparte to bring about a democratic revolution in the Roman States with as little convulsion as possible." (Alison, vi. 166.) The hateful and fatal policy succeeded too soon—with what results the historian has shown. Meanwhile the pillage of the ecclesiastical states continued without intermission; and having exhausted the public treasury, and drained the country of all specie, the French agents laid their rapacious hands on all the jewels and precious stones they could find. The value of the plunder they thus got was astonishing," (ibid.) "The Pope," says the French ambassador at Rome, to Napoleon, "gives us full satisfaction in the payment of the 30,000,000 francs. But it is with the utmost difficulty that these payments are raised: the country is exhausted, let us not drive it to bankruptcy," (Ibid. note.)

Again.

"The people are exhausted; it is vain to expect the destitute to pay. I take advantage of these circumstances to prostrate Rome and the Papal Government. Discontent is at its height in the Papal States. The government will fall to pieces of itself. We are making it expire before a slow fire—it will soon crumble into dust."

The historian then continues to picture the condition of the Pope, alas! too much the same ever since!

"At the mercy of the French—threatened with heavings of the democratic spirit within his own dominions, and exposed to all the contagion arising from the complete establishment and close vicinity of republican governments. The pontifical treasury exhausted by the immense payments stipulated by the treaty of Tolentino, and the enormous subsequent contributions levied by the French, while the activity and zeal of the revolutionary clubs in all the principal towns of the Ecclesiastical States was daily increasing." (Ibid. 167.)

We have before us a French work, giving an account of Italy, and especially of the Roman States, just before and after the French invasion, which will give an idea of the

terrible effects it produced.\* “I was in Rome,” says the writer, “in 1791. The city had then 166,000 inhabitants; and it was full of fine buildings, which had a character of grandeur and opulence.” “In 1812-13, when he wrote, the population had declined to 100,000; and of those, more than ten thousand, he says, were gardeners, &c. There are vast quarters of Rome which are no better than villages.” This immense change he avows was to be ascribed to the political events (*les evenements politiques*, delicate phrase for plunder and pillage!) of the twenty years which had intervened. The Frenchman had not the audacity to ascribe it to misgovernment. And he said that the Roman agriculture was that of Tuscany.

In 1809 Napoleon seized the Papal States; as Sir A. Alison tells us, (vol. xiii. p. 138) the Roman territory was speedily subjected to the whole Imperial regime. The conscription, the continental system, and the taxes levied upon the French system, were carried to the credit of the imperial budget. What was the proximate cause or excuse of this infamous measure of spoliation? The Pope’s refusal to adopt this continental system of the Emperor, and its treating with England his great enemy. Englishmen should remember this: and the Pontiff’s noble language to the tyrant is thus generously recorded by the Protestant historian:—

“The demand to dismiss the envoys of Russia, England, and Sweden, is positively refused; the Father of the Faithful is bound to remain at peace with all, without distinction of Catholic or heretic. Pius VII., to the Emperor, March 12, 1806.” (Cited by Alison, xiii. p. 118, in notes.)

But what was the real motive of this measure on the part of the Emperor? He himself has told the world, in words which the world would do well to remember, and which are thus recorded by Alison: “By annexing the Papal States, I obtained the important object of separating his temporal from his spiritual authority.” Well, and what then? Mark, that, in Roman Catholic countries where the papal power is lowest, bigotry and tyranny are ever the greatest. Thus the Count de Montalembert says, speaking of the anti-papal legislators of Austria and

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\* *Lettres Ecrites d’Italie en 1812-13. par F. de Chateaufvreaux, Paris 1820.*

the House of Bourbon, and of the system of despotism established, that in Germany and Lombardy, by Joseph II., and in Tuscany by Peter Leopold, and of the measures of spoliation and violence taken by those two absolute sovereigns. "In Tuscany," says the Count, "there were, (that was in 1852) the laws of Leopold, which secured the servitude of the Church, as those of Joseph II. in Germany. All the shackles placed upon the independence of the life of the Church are maintained. Much is said of the excellent changes introduced by the Grand Duke into the system of public instruction, he has subjected all the educational establishments to the episcopacy. But as the bishops are subject in everything to the government, what security is there for the liberty of their action and for its duration?" Whatever complaints then were made of Austrian oppression or despotism down to the happy era of the *Concordat* are to be ascribed, not to Papal but antipapal influences. As we shall show.

Since the Treaty of Vienna, at which, with the full concurrence of England, the Papal sovereignty was restored, it has suffered incessantly, not merely from the temporal depression occasioned by the iniquitous spoliations of Napoleon, but what has been infinitely worse, the moral infection of French irreligion and revolutionary influence, combined with the discontent occasioned by the armed intervention and military despotism of Austria; discontent continually kept alive, irritated, and inflamed by the interested intrigues and insidious machinations of Sardinia. No other state ever suffered from such a combination of difficulties—such a complication of embarrassments. And the wonder is, not that there should be some discontent, or even some plausible appearance of occasional excuse for it, but that there should be, admitting such formidable difficulties, a government so little open to any real substantial complaint.

This we will show from authorities the most hostile.

Take, for instance, that work of Farini, which embodies, in a formal and elaborate manner, all the matters of complaint that can be urged against the Papal government, and which, as we shall see, furnishes the staple of all the invectives circulated against it.

The first thing to be noted is, that this, as all other attacks upon that government, is essentially of Sardinian origin. This circumstance is singular and significant, and

of itself suffices to show the little credit that can be attached to such attacks, and the interested and insidious motives in which they all originate. We can venture to say, that we defy any one to give us a complaint against Papal government, really originating with one of its own subjects. It is not Roman, but Sardinian complaints, we shall find we have to deal with. Their origin is not in Rome, but in Turin.

It is true Farini was born a subject of the Papacy, but his enmity to Papal government was excited by Sardinian intrigues. His political tutors were Gioberti and Balbo, both Turinese; he engaged in the intrigues they had incited, and found an asylum at Turin, whence emanate all the attacks upon that government, whether in the columns of the *Times*, or in the despatches of Count Cavour, or the speeches of Lord John Russell or Lord Palmerston, or in the pages of Farini, or Whiteside, or Lord Broughton. It was Gioberti's work on the civil and moral primacy of the Italians and Angeloni's on the federation among the Italian States, and Balbo's on the "*Hopes of Italy*," which excited the movement against the Papal government, not at all on account of its own inefficiency, but because they desired the downfall of ecclesiastical authority and the substitution of Sardinian for Roman supremacy in Italy. So of Mazzini, a Genoese, so of Massimo Azeglio, a Piedmontese. Whatever the particular political views and ultimate aims of the assailants of Papal government, it is, we repeat, a most singular and significant fact, that they are subjects of Sardinia, or under its influence.

And this is the case with Farini, who wrote at Turin, just as Mazzini dedicated his first work on the subject to the king of Sardinia.

Farini, therefore, is a witness hostile to the Papacy. But we shall find that his history confirms the view we have presented, viz., that the discontent with Papal rule originates not in its inefficiency, but in the interested intrigues and interventions of foreigners. Let us place together a few extracts from Farini, in tracing the history of Italy from 1815 to 1831. We shall see in a striking light the vagueness of all complaints of Papal government as compared with the deep and vivid sense of foreign interventions, while at the same time we also see how the occasion or necessity for these interventions arose from the

infection of French principles, or the oppressiveness of Austrian despotism. And let us bear in mind that down to the last few years the government of Austria was at once anti-papal and despotic, and that of all who suffered from its despotism none suffered so deeply as the Popes, and nothing was so mischievous to Papal authority, which, having to rely on its aid, owing to the French revolution, and the wars of Napoleon, naturally got to be, in men's minds, associated with it. Look, then, at the picture which Farini gives of Italy during that period.

"In the twenty years of the French revolution, and the wars attending it, our wretched land was trampled by aliens of every race, until at last it both had lost the ancient liberties of some of its noblest provinces, and saw dragged under the yoke of Austria, besides Lombardy, the whole Venetian territory, *with some places and fortresses of the Papal states.*"

The clear meaning of which is, that these places, by passing from Papal rule to Austrian, lost their ancient liberties, which quite confirms the account given by Ranke.

"The commonalties (commoners) were in servitude, the states were fiefs, the sovereigns were Austrian prefects; if at that period *there was any token of a spirit of independence it appeared to proceed from the court of Rome*, which made complaints of the abstraction of its territory beyond the Po, and of the occupation of its fortresses at Ferrara and Commachio."

"Cardinal Consalvi, who was a sagacious person, made complaints and protestations at Vienna."

Why? Because that sagacious man foresaw the mischief which would ensue through armed Austrian occupation in the Papal states. He resisted, but in vain. And he resisted without the sympathy of the Italians themselves, for Farini adds:—

"But the people of the Roman States, and particularly those of the northern provinces, which had advanced the furthest in the modern ideas, cared little, perhaps were pleased, that the ecclesiastics should suffer disgrace and detriment."

The "modern ideas," that is, aversion to the priesthood and alienation from the Church. The "modern ideas," engendered by the French revolution and the French occupation of Italy, and the contagion of French irreligion. Farini does not point to misgovernment as the

cause of this feeling, but prejudice against ecclesiastical rule, as such. Merely because it is ecclesiastical.

And he is obliged to acknowledge that while the Papal court resisted with spirit the armed occupation of Austria, his countrymen connived at it, from a childish jealousy of ecclesiastical rule, under which, as Ranke shows, their country had acquired all its wealth, its influence, and its glory! Were these creatures fit for self-government? Preferring the military oppression of foreigners to the mild pacific rule of their native sovereign, who sought, like all his predecessors, only the enfranchisement and independence of Italy! Farini tells us:—

“In the Pontifical States the ecclesiastics returned to the exercise of those civil offices which in former times, when society was in its infancy, they had filled, *not without distinction to themselves and advantage to the public*, but which they had resumed by mere privilege of caste.” “It is manifest how much evil this must have caused to the laity, and how much jealousy to the clergy.”

The “jealousy to the clergy” is “manifest” enough, but not the “evil to the laity;” for what could it matter to the body of the laity, by whom they were governed, if they were governed well? That is how the Pope put it, and it is the practical way of putting it. And in that view it is plain Farini has nothing to say against it, for he admits that ecclesiastics had governed well; and as to the “infancy of society,” our readers will appreciate that, having had their memories refreshed by the history of Ranke. The fifteenth, sixteenth, and seventeenth centuries, were not exactly the “infancy of society.” The real truth is, that the few laymen who lost office were jealous, and created all the cry about Papal misgovernment, yielding themselves readily to Sardinian intrigue. This was exactly Farini’s case. He lost his place and took refuge at Turin. The “cry” is simply, so far as it is Roman at all, the cry of displaced officials, jealous of ecclesiastics who displaced them. The reasons for preferring ecclesiastics are another matter. Probably the necessity for economy was one reason. At present we are content with the fact that Farini confesses the “jealousy of the clergy;” with how little foundation, he elsewhere shows, stating that for 300 churchmen there are 5000 laymen in the Papal administration.

But he goes on to confirm the view we have presented,

as to the causes of the troubles in the Papal States. He includes French irreligion.

“And the philosophical doctrines, which take their name from the Encyclopedists, had penetrated among us during the sway of the French, so that the authority of Rome had greatly declined among the educated classes, and men thought and wrote in the French manner.”

He mentions incidentally, however, that some choice spirits among the Italians “attained to celebrity and honour within their native districts,” which does not look as if the Papal government was so very bad. Then he goes on to state how the sect of the Carbonari arose in Italy. And it is remarkable that he mentions what we believe to be the fact, that this sect arose not in the Papal States, but in Naples. It then penetrated into the Roman states; but in a work we have before us it is stated that the Carbonari were not originally hostile to the Papacy, their object being the liberation of Italy, which they knew was also the object of the Papacy. It was only later that they imbibed the fatal infection of French or Sardinian irreligion and became hostile to the Church. This has been the case ever since. A work lies before us, “*Memoirs of the Secret Societies of the South of Italy*,”\* showing that what Mr. D’Israeli has stated in parliament as to their existence and diffusion in Italy ever since the French revolution of 1796, is too true, and that the Carbonari, the foul offspring of Jacobinism, have never ceased to infest the Italian states. It is very observable that it is stated in this work, (p. 18,) that they arose first in Genoa, and were designed to annex it to France. The original object of these Italian liberals was the expulsion of the French, and that they had no objection to the Papal government. (p. 13.) To throw off the yoke of the foreigners had been the exhortation directed against all foreign powers; it was now directed against the French. But the cry of Italian independence soon found a more dangerous application, for it became the rallying-word of all factions against the legitimate governments of the country.

So Farini tells us that it was against Austria that the Carbonari directed their early enterprises. It was only

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\* London, Murray, 1821.



when they found that the Papal government by necessity was forced to lean rather on the arms of Austria, that they were led to look upon it with hostility. It is thus he puts it, (p. 10,) "Rome was fearful of the liberals; she did not use great severity, but she allowed Austria," &c. As if she could help it! Austria occupying portions of the Papal territory against the will of the Papal government! How absurd to make it answer for the acts of Austria! Yet so it has been ever since. Such is the price Rome has paid for Austrian aid. The loss of its popularity.

Farini goes on to tell us more of the truth on this head.

"The Sect of the Carbonari in extending itself, received men who were so profligate that amidst revolutionary feats, they insidiously dipped their hands in blood. Thus the civil feuds were aggravated, and the seeds of lasting hatred and resentment sown."

Yet still he says, "Consalvi could ill endure any foreign intervention;" and he quotes a letter of the Cardinal's in which he calls it "a remedy worse than the disease." Then he goes on to show how Austria assumed the championship of absolutism in Italy, and bullied the Court of Rome "into a course of political severity." This is his account. But he very truly adds, "it followed that the Liberal party confounded in their hatred the foreign oppressor, and the feeble ecclesiastical government which appeared to be his tool." No doubt! That is our argument. The liberals "confounded" the Papal Government with the Austrian, and moreover, "confounded" the feebleness arising from foreign oppression, with a feebleness arising from inherent constitutions.

And then Farini further lets us into the truth when he goes on to say that the "political exiles," in their dispersion, detailed the proceedings of the Pontifical Government, "perhaps colouring them with spite." Exactly so. There is no bitterness like the bitterness of a political exile. This, the poetry of Dante, and the history of Farini, equally, although in such different forms, most strikingly display. To illustrate his own remarks about the spite of political exiles, the exile at Turin at once launches out into one of those diatribes against the Papal Government, which really defy refutation on account of their very looseness and unfairness. This indeed is the difficulty in the way of any defender of the

**Papal Government.** He can get nothing tangible to grapple with. Who can deal with such vague charges as "corruption," or "inefficiency," and so forth? What do they mean? what is corrupt? who is corrupt? what is feeble, or "inefficient?" What is bad, in the law, or in its administration? in the legislature, or the executive department of government? In its social or financial functions?

One would really feel quite grateful and glad to get hold of something specific, yet how hard it is to do so! Thus, Farini gives us the Manifesto of the Revolutionary Conspiracy in 1831. Here it is, (p. 467).

"Under the rule of the Pope, we are not only without fundamental laws, without national representation, but without provincial councils, without municipal authorities, without security for person and for property."

The last charge is really rich, in the mouth of a revolutionist and a conspirator. The best commentary on it is furnished by Farini, who says, (p. 64-65.)

"The people behaved in so loose and unruly a manner, that many disorders and crimes were committed with impunity. The hostility of intestine factions, and the suggestions of foreign powers, gave encouragement to excesses; and the illusions of passion, and of presumptuous ignorance, threw a veil so dense over the judgments of men, that the common herd of liberals lifted up their heads *and played into the hands of those really guilty of treason or disorder.*"

So that the only failure of security to person and property, arose from the "intestine factions," and the evils they led to. This is precisely the truth.

Then as to the want of "national representation," and "provincial councils," why, as we have seen, Italy never had them, and it could scarcely be a grievance, so late in her history, that she still wanted something which she had wanted in the best days of her prosperity.

As to the want of fundamental law, it is very vague, but may be explained by what follows:—

"Our civil legislation was drawn in great part from the Code of Justinian, qualified from time to time by each successive *motu proprio*, according to the variations of successive Popes: add to these the mass of canons and Papal constitutions, and the innumerable decisions of courts having the force of law, which, to increase the difficulty, were in conflict with each other."

As the decisions of our own courts sometimes are. And the best way they find to avoid such differences, is to base their decisions on the principles of that Justinian Code, the prevalence of which, in the Papal States, this manifesto put forward as a *grievance*! Here is a specimen of the ignorance of these revilers of the Papal Government, and of their unfitness for self-government, that at the very period when the Courts of civilized countries are becoming more and more sensible of the excellence of the Civil Law, they should actually mention it with scorn as a grievance! The complaint, take it at the worst, merely comes to this, that the Roman States are governed by the civil and the canon law, just as England was before the separation; just as some of our colonies are still; just as she herself in a great degree is still; just as Rome, in its most glorious days, was governed; just as every State in Europe, including France, to this day, is more or less governed! These, forsooth, are the people who are to reform the Papal Government! These grossly ignorant charlatans, whose every sentence shows an utter ignorance of jurisprudence. These be thy gods, O Israel! These thy guides, O Italy!

“Again, for criminal law, we have had proclamations differing in the different provinces, which classified crimes, and measured their enormity, according to the decisions of theological casuists and not of statesmen.”

Now here we see men actually making a *grievance* of that which is the *fame* of Romilly and Peel, that they sought, in unison with the enlightened principles of the Italian Jurist, Beccaria, to adapt punishments more to the real moral character of crimes, and their degrees of turpitude, repealing, for instance, the capital punishments for horse-stealing, or sheep-stealing, or forgery, and restricting such sentences to treason or murder. Here are men positively in the insane madness of faction, complaining that the Courts of the Papal States had made themselves models for Europe in this respect, and so much so as to have been followed by our own statesmen! Not with entire success; and they have still a great deal to learn in this respect, from the Roman Courts, as we shall show shortly; the want of propriety or proportion, in our criminal sentencing being still a painful scandal, though no one in his senses would speak of it as these insane

Italians did, as a pretext for revolution! And this nonsense is set before us as gospel, by Mr. Gladstone!

"The administration of justice could not be otherwise than a monstrous product of those minds which had favoured or invented a legislation so vicious."

Of course. But this is too vague, though so very violent. What are the proofs in illustration?

"A prætor as judge, in the first instance, of the causes of an entire province, had to make head against this multitude, and to take upon himself the charge of settling them."

What this may mean it is not easy to see, but if it means anything that we can make out, it merely means that there is a Chancellor who is at the head of the jurisprudence of a province, just as our Lord Chancellor is head of the law, or Sir Cresswell Cresswell is head of all the Probate Courts in the country, so that a suit may be instituted either in any one of those numerous courts, or in his own. In either view, or in any view, as a grievance, it is mere nonsense.

"In like manner a judge, deputed by the bishop, in each diocese, not only took cognizance of the questions that related to the persons of the clergy, or to matters ecclesiastical, but he likewise drew before him the laity, in all those causes which were called causes of the mixed forum."

Just as, until the Probate Court was established, the Ecclesiastical Courts in this country granted probate of wills or letters of administration; and now take cognizance of the fitness of clergymen for Church preferment in the Establishment, and marriages, and other matters of a mixed character. As a grievance this is really puerile. Then it is added: "The same causes were renewed in the way of appeal before the judges, also appointed by the bishops." This is more idle still, for courts without appeal surely would create a grievance, and to whom should ecclesiastical causes go but to judges appointed by the bishops? Our friends the Tractarians think it a grievance that they should go to judges appointed by the Crown. But in the Papal States, the Pope being sovereign Prince as well as sovereign Pontiff, is supreme in all matters, civil or ecclesiastical, so that a grievance on that head can hardly arise.

But then this precious manifesto goes on to complain

of the Court of the Rota (the finest court in Europe, on the model of which the finest of our own courts, the Privy Council, was framed,) and the Segnatura.

Here we may observe how stereotyped these frivolous charges against the Papal Government are! Such an utter want of any real substantial grievances is there, that its assailants are obliged to repeat over and over again, their ridiculous complaints. Thus in a pamphlet printed at Turin, in March, 1857, in reply to M. de Rayneval's famous note, and signed "*Un Sujet du Pape*," the following sketch is given of the "chief grievances in the judicial regimen in the Roman States." M. de Rayneval had declared that, on close examination, he had been unable to discover any grievances. The Pope's "subject," who writes however, from Turin, undertakes to point some out to him, and enumerates them thus:—

"Multiplicity of jurisdiction and tribunals. First, an episcopal tribunal in each diocese (there are 67 in the Pontifical States, in a population of 3,000,000 while in France there are only 80 dioceses.) This tribunal, composed of a single judge, who is the vicar, takes cognizance of civil and criminal cases, whatever their importance, whenever the persons or property of priests, of religious congregations, and of benevolent institutions are in question. Married clerks are also exempted from the ordinary jurisdiction. After this tribunal come those of the Inquisition, of the *Sacra Rota*, which is a sort of court of appeal in the third instance; of the *Segnatura*, analogous to the courts of cassation. Then we have the *Sacra Consulta*, which judges political crimes; the *Lauretano* tribunal, that of the bishops and regulars, that of the *Pubblica di San Pietro*, &c. In short, all included, there are 13 or 14 in Rome, without reckoning the ordinary tribunals of first instance and appeal in the provinces."

Not long ago the "Roman Correspondent" of the *Times* quoted the above, and added these sapient remarks:

"I need add nothing to this exposure of the labyrinth of law courts. Without venturing among the special tribunals, you will perceive that ordinary causes may be tried four times, including the *Segnatura*."

Which is about as absurd as if a man were to say of the British courts, what a multiplicity of tribunals! a court ecclesiastical in each diocese! a Probate court in every county! half-a-dozen Courts of Chancery! a court of admiralty; a county court in each county, taking

cognizance of bankruptcy, insolvencies, and common law: Courts of Bankruptcy and Insolvency as well, and Superior Courts of common law for civil matters, with appeal-tribunals, Courts of Quarter Sessions (besides petty sessions, police courts, coroners' courts, and grand juries), for criminal matters, with the Courts of Assize, and a Court of Appeal on matters of law, but none on matters of fact (a real grievance by-the-bye, as we have shown in a former number). Added to these "Courts of Special Commission," and a host of peculiar courts, Commissioners of Sewers, &c., Charity Trusts, &c., &c.

"The jurisprudence in vogue is worthy of the rest. The laws in vigour are the Roman laws, down to the end of Justinian's empire; the canon law from the so-called *Decretum Gratiani* down to the end of the 15th century; to these are to be added a heap of bulls, ordinances, and edicts of Popes and decisions of tribunals. In lieu of this chaos the Romans ask for a code, any code; that of Napoleon, or, if it be refused, that of some other Italian country. They ask for a diminution of the number of tribunals, that these should be composed of laymen, and that the special courts should be abolished."

It may be confidently stated that the man did not know what he meant by the "Special courts." His ignorance is transcendental. "The Romans ask for a code, *any* code!" As if they had not had codes, civil and criminal; the civil code ever since the time of Justinian, the criminal code for many years.

And the best of it is, that we ourselves have neither civil nor criminal code! The other day this very *Times* wrote thus:—

"How many years have now glided by since a paragraph about Legal Reforms has been an invariable ingredient in a Royal Speech at the opening of Parliament! Whatever may be the point slurred over or omitted, a good sonorous phrase about the purification of the Statute-book and the consolidation of the Law is ever introduced. Men who once were young, are now wincing under the marks of advancing age. They have waited and waited for the accomplishment of these fair, delusive promises; and yet how little has been done in the way of their fulfilment! That something has been accomplished we deny not, and yet how little by comparison with what might have been achieved had the reform of the Statute-book been a party question!

"Again, with regard to the Criminal Law. Thanks to ROMILLY and a few enlightened men, we have now succeeded in purging this portion of our jurisprudence from some of its foulest and most

hideous incidents ; but in the year 1859, the *task of digesting the Criminal Law of England into a harmonious whole, remains to be performed*. It cannot be said that such an undertaking is not urgent, for in the year ending the 29th of September, 1857,—the latest period to which our returns extends—there were committed in England and Wales, upwards of 57,000 indictable offences. Surely, here is enough to engage the attention of the Criminal Law Reformer; and yet year after year we are put off with vague promises that the task which has now been so many years in hand will be brought to completion.”

So that this very paper, whose correspondent at Rome represents the Romans as asking for “a code, *any* code,” knows very well that we have no code; and does not know that the Romans have always had a civil code, and long had a very excellent criminal code!

And the idea of sneering at the Court of the Rota!—incomparably the best and greatest which ever has existed in the world! Composed of the best and most experienced judges which the Catholic States of Europe can furnish for it, it being deemed the highest privilege to be permitted to send a judge to it, so that Ranke actually mentions it as a great boon to Milan that Sixtus V. restored the privilege to it! A court, the constitution of which is as perfect as any human tribunal could be, and whose decisions have always been held in the highest veneration all over Europe! The idea of a Roman making this Court a grievance! and Mr. Gladstone believing it!

Dr. Bowyer says,\* “the Rota of Genoa was constituted on the same plan as the Rota of Rome, and the celebrity which the latter tribunal has given to this species of court, renders the subject interesting.” He tells us that “the decisions of the Genoese Rota are esteemed, although inferior in extent and celebrity to the decrees of the Rota Romana, in which, as each of the principal Roman Catholic states had the privilege of nominating a judge, there were always some of the first civilians and canonists in Europe.” Its constitution was imitated by our own Judicial Council. And at the Roman Revolution, in 1848, no better President could be found than the “Dean of the Rota,” who was accordingly chosen by the republicans. And it is remarkable how little the Roman Republic, when re-

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\* Dissertation on the *Statutes of the Italian cities*.



modelling the constitution of the Papal States, altered, or professed to alter practically the state of things they found existing. Still more important is it to remark how little there is of conflict and how much of harmony between the Roman system of law and our own. But the misfortune is that most of the scribblers on the subject are equally ignorant of both!

To return to the manifesto of 1831. As to criminal matters its complaint was this, that

"A president legate of the province, who was exclusive judge without appeal in civil matters, had the largest power to decide causes where the punishment extended to ten years of the galleys, without appeal, without regular process, without communicating the charge to the accused, and without any instrument (means) of defence."

As to which, let us look at what Farini himself states, having probably forgotten what he had cited from this mendacious "manifesto."

"Every capital of a province is the seat of a Collegiate Court, which administers justice as well in civil as in criminal matters. Public discussion is allowed in the first but not in the second. The independence of the judicial power is declared by the legislature and judicial rules. But in the edict of 1831 are these words: 'The legate or delegate, if he wishes it, may preside at the sittings of the courts which try criminal causes, *but without a voice*. The trials criminal and civil are very long. There are two tribunals of appeal. The *sacra consulta* is the supreme court of appeal in capital causes. This court also tries state offences. The proceeding is *per via sommaria*, but the decision is reserved to the *Sacra Consulta*, a tribunal charged with the direction and forms of procedure. The record is communicated to the Advocate of the Poor, or the counsel chosen by the accused, when the choice has been approved by the President. It is not in *these cases* permitted to confront the witnesses with the accused, and the President examines the accused. The judgment is without appeal except in cases of capital punishment, where the evidence has not been unanimous."

Hence it appears, that what the manifesto states on the subject, is a tissue of falsehoods, and it is put forward under the auspices of Mr. Gladstone, in the very book which elsewhere shows that it is so; a specimen of the recklessness with which charges are made against Rome. It is only in cases of treason, or *aspiracy* against the public peace that

which the manifesto ascribes to all offences. Mr. Whiteside fastened upon this part of the Gregorian code in order to found an attack against it. (vol. ii. p. 293.) He cites the code fairly, and we have no doubt sincerely declares his willingness to make every allowance for the difference of certain peculiar jurisprudence and national character. But he hardly succeeds in doing so. "Secret trials," (he exclaims,) "suppression of names of prosecutors and witnesses, refusal of means of making defence, special commissions, torture of the accused," (don't be alarmed, reader,) "by personal interrogations in prison, the code giving no definition of sedition or treason, and leaving it to a court so constituted to condemn, upon an extorted or perverted answer, an unfortunate accused to death." It sounds very dreadful. But take it to pieces, and what does it all come to? Simply that the Roman Criminal Courts follow a course of procedure more nearly resembling the French and Scotch systems, than our English and Irish systems, although, as for special commissions, we have heard of them in England and Ireland, and as to secret enquiries in prison, why it is really a most curious coincidence that it should have been reserved for Mr. Whiteside, as Attorney-General, to afford a commentary on the abuse he levels at the Roman system.\* He overlooks, by-the-bye, that the *Sacra Consulta* has the "direction of the mode of procedure, according to the circumstances." And when he cried out that the code

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\* In the same papers we had accounts of the arrests in Ireland, for the suppression of the Riband conspiracies. We read of men arrested at the dead of night, dragged out of bed, and lodged in gaol, and secretly and separately examined in prison, until some of them were induced to turn informers, and betray their fellow conspirators. No doubt these are the only means by which conspiracies can be detected and suppressed. But is Ribandism worse than Carbonarism, or red republicanism? or are means of repression just and necessary in Belfast or Dublin, which are nefarious in Paris, Naples, or Milan? Nor can it be said that the conspiracies in Ireland were not without provocation, not without such palliation as ignorance can afford. The admirable letters of "*Cosmopolite*," in the *Times*, showed that a wretched state of things exists in that country, and the people had just sustained the entire disappointment of the exaggerated hopes which they had been led to entertain of tenant right.

gives no definition of the offence, he surely forgot that *we have no code at all*. When he declaims about 'secret trials,' and suppression of the names of witnesses and prosecutors, he mistakes the code which runs thus: "The process shall be communicated, together with the summary, to the Advocate of the Poor, or such other counsel as shall be named by the accused, and that there shall not in such causes be allowed any *personal confronting* of witnesses," which is quite another thing from suppression of the names, and quite immaterial, for if the witnesses are known, as they may be, and they are personal enemies, or of bad character, that can be shown. And when he talks of "refusal of means of making defence," he forgets that the Roman system actually not only permits, (which ours did not a few years ago,) but *provides* counsel for the accused. Then, as to personal interrogatories of the accused, Mr. Whiteside forgot that it was the practice in France, and even in *Scotland*, in part of our own country. And he also forgot that there are some jurists who think that it is a boon to the accused, if he be innocent, and ought to be allowed.

During the present session, Lord Brougham laid upon the table of the House of Lords, a Bill, the object of which he stated to be to extend to defendants in criminal cases, the *privilege* now enjoyed by those in civil cases, of being *examined if they chose*. The change was one, he admitted, which, as introducing a material alteration in the law of evidence, ought not to be adopted without due deliberation; "but he could not, at the same time, help thinking that the exclusion of defendants in criminal trials from the witness-box was based upon no solid reason. In 99 cases out of a 100 in which the Crown was the nominal, a private individual was the real prosecutor, and to contend that under such circumstances he might fairly be admitted to give testimony while his adversary was not allowed to say a word, was, he thought, an anomaly." The argument in support of this view is, that the prisoner can often explain, very easily, a matter which he cannot call any witness to explain. There are, no doubt, arguments the other way. And on this occasion, Lord Campbell stated that—

"He had been an advocate for the introduction of the change in civil cases to which his noble and learned friend, Lord Campbell, was of opinion that the Act of 1851 had

well, though a considerable amount of perjury had prevailed under its operation. But, he said, his noble and learned friend on the present occasion, proposed the entire subversion of the mode under which criminal justice had hitherto been administered in England, and would reduce it to a system somewhat resembling that which existed in foreign countries. Now if the change contemplated by the noble and learned lord were to take effect, it must apply to cases of high treason as well as to a misdemeanour or a felony, and what, he would ask, would be the situation of a person accused of the first-mentioned offence if he were reduced to the necessity of either refusing to give evidence, and thus in effect make an acknowledgment of his guilt, or going into a witness-box and submitting to a cross-examination as to every thoughtless expression which he might have uttered in his lifetime, or every indiscretion he might have committed? To subject any man to such an ordeal would be—and he spoke with the advantage of a long experience in such matters—greatly to augment the severity of the criminal law in all its departments. The result would inevitably be that the jury would set down as guilty those who refused to be examined. If his noble and learned friend had confined his Bill to one or two cases, as, for instance, that of perjury, and had provided that there the prosecutor should be heard on one side, and the defendant on the other, he could have understood such a proposal; but a measure so sweeping as this filled him with alarm."

The noble and learned lord forgot the law of Scotland, under which Madeline Smith, for instance, was officially interrogated before the trial, and with an effect very nearly fatal. See the effect of prejudice.

"Lord Brougham said, his noble and learned friend had rather astonished him by his reference to the practice in other countries, and to this measure as bearing the slightest analogy with, much less as resembling, that practice. What was the objection to the French system—an objection in which he entirely agreed? It was that the examination of the prisoner was conducted by the Court, that it was a compulsory examination, that every prisoner was subjected to what Lord Denman called a moral torture, that every word he had uttered out of court was brought against him on his examination in court, and that he had no means of escape, being compelled in all cases to undergo this questioning. But the present measure only proposed that the prisoner should be examined if he presented himself for that purpose. No doubt cross-examination would follow; but, if the prisoner were innocent, surely he would desire above all things to submit to this examination, while if guilty, ~~it would be the~~ <sup>as he would most fear.</sup> His noble and learned friend's sanction to the Question Bill of ~~whole~~ <sup>whole</sup> that measure had worked

well, and had furnished the Court with additional opportunities for arriving at that which it was the only object of the Court to ascertain—the truth of the case before them.”

So that there are, it will be seen, strong arguments on both sides upon this, which is probably the most difficult problem of criminal jurisprudence. And without adopting either view in its entirety, what we complain of is, the absurdity and bigotry of assuming that the English view is the only true one, and fastening foul imputations on the Roman system because its procedure is necessarily quite different from ours, being based upon quite the opposite view.

“The Lord Chancellor agreed with the Lord Chief Justice in his disapproval of the practice sought to be introduced by the Bill. His noble and learned friend (Lord Brougham) said that this practice differed entirely from the French system, and that the latter consisted in a compulsory examination of the prisoner by the judge, who undoubtedly endeavoured, with all the practised dexterity at his command, to extract an acknowledgment of guilt. But the Bill contained even a worse feature, for, while in France the examination of the prisoner was not upon oath, his noble and learned friend proposed that he should be sworn to the truth of his statement; and, although the examination was to be optional, it was quite clear, as the Lord Chief Justice had remarked, that in practice it must be compulsory. Now it had been the boast of our law that we exhibited the greatest forbearance towards the accused, and where there was the least reasonable doubt of guilt it was invariably laid down that the prisoner was entitled to the benefit of that doubt. Now suppose a person were charged with an offence, the question of his guilt or innocence being involved in considerable doubt. At present the judge would so direct the jury as to incline the scale in favour of such a prisoner; but what would be said if the provisions of this Bill were adopted? Why, that one man, and one man only, could clear up the uncertainty, and if under such circumstances the accused refused to present himself for examination and cross-examination, and to expose, in so doing, his whole life—perhaps not a very moral one—to the probing questions which would be addressed to him, the natural presumption of the jury would be that he must be guilty. The result of the Bill, therefore, would be to introduce a total change in the law, and a change for the worse. It would be a change by which this country would lose the high reputation it had gained for the pure administration of justice. He would mention a curious circumstance illustrative of the notion which Parliament entertained of the advantage of allowing persons criminally accused to give evidence in an action in the Court of Exchequer.”

an offence in violation of the revenue laws, a question arose whether the party against whom the information was filed was entitled to be a witness; and the decision on that point depended on the circumstance whether the case was a civil case involving a mere debt to the crown, or a criminal offence. The judges of the Court of Exchequer were equally divided on the matter; and the result was that an Act of Parliament was passed to render persons accused of offences against the revenue laws not competent to be witnesses. He believed that the revenue suffered very considerably by that law, because he had not the least doubt that were the parties accused of a breach of the revenue laws compelled to be witnesses in every case there would be a certain conviction. He had considered since last session, when a similar Bill was laid before their lordships, and he quite agreed with the Lord Chief Justice to the extent to which that noble and learned lord went, and he went further, because he was not desirous, in the slightest degree of breaking in upon the rule of law which prevented in criminal cases the parties accused from being examined."

"Lord Brougham observed that in criminal cases at present the prosecutor was examined, while the accused was not allowed to be examined, and the law was entirely inconsistent with itself."

The Bill no doubt will be rejected, but we cite the discussion upon it for the purpose of showing the difficulties which such questions raise, and the candour with which they should be discussed. Here we have three noble and learned lords discussing the subject, all forgetful that the law—at least in principle—was already law in their own country, and we have one of them considered one of the most enlightened men in Europe, deliberately proposing to alter the law, so as to bring it at all events nearly in accordance with the law of France and Rome, which the Irish Attorney-General was rash enough to hold up to repudiation. We have this further to remark upon the subject, that the feature in the French and Roman law to which we refer, necessarily affects the whole criminal procedure, and renders superfluous various safeguards which we set some value upon. For, if you interrogate the accused, obviously that must very much *economize evidence* and simplify the case, and make the arrival at the truth much more easy, and dispense with, or materially diminish the importance of many parts of our own procedure. And there are many who share Lord Brougham's view, that our system is unfavourable to the accused, if innocent.

To show the importance of the question, and likewise to

show what may be—aye, and in many similar cases has taken place under our law, let us cite here a sad story, told a year or two ago in the *Times* by Mr. Brady.

“Mr. T.—, a young man of high character, with respectable family connexions, was employed for 12 years in one of the largest firms in the ‘Manchester line’ in the city, the last three of which as buyer for the establishment; in that capacity he laid out on an average from 40,000*l.* to 50,000*l.* a-year. In the early part of the year 1853 he left town for Manchester by the night mail; on arriving at — station he changed his mind, and determined not to proceed to Manchester that night. On leaving the station for the hotel he was stopped by a police officer, who accused him of stealing the carpet bag which he had in his hand; on examination it was found to be the property of another gentleman. He endeavoured to explain that he took it by mistake; but to no purpose. He was searched; his ticket for Manchester was found on him. This fact was considered conclusive evidence that his leaving the train at this intermediate station was done for felonious purposes. Another policeman coming up at the moment at once recognized in the person of Mr. T.— a notorious swellmobsman from London, and, jocosely taking the gold watch and chain from my friend’s neck, said, ‘I suppose this is part of the proceeds of your calling.’ Expostulation on the part of the accused was vain. He declared his innocence and asked for his own bag, but the idea of his possessing such an article was utterly ridiculed, and his request was looked upon as part of the sharper’s dodge. After a little further ceremony he was consigned to a cell for the night, to wait his examination. He implored permission to write to his wife, but so great a favour could not be granted.

“The accusation, even at this early stage, had done its work. Excitement set in, and in the agony of his distress he conceived the futile design of attempting to escape from the horror of the place he was in and the foulness of the charge. Unfortunately the attempt was made, and from that moment his fate was sealed. Without being permitted to communicate with his friends he was examined before the magistrates and committed to the county gaol. Eight days from this time his wife, who was in perfect ignorance of what had happened to her husband, went in great distress of mind to the city to make inquiries as to his absence, when to her consternation she was told that there was an account in a country newspaper of his having been committed to prison on a charge of robbery. At once she set off to his prison, and, after an interview, proceeded to the magistrate who committed him with a view of having him bailed out, but in vain.

“Now, without going into minute detail of what took place from the time of his wife seeing him in prison to the time of his trial, I shall state that the day for his trial was appoin-



for the defence had instructions to telegraph to his brother, a gentleman of high character in the city, who, with my unhappy friend's employer, intended to be present at the trial, to speak to character. But the fatality which in the first instance befell him pursued him with unrelenting perseverance. The business of the court, which was calculated to occupy a certain time, was got over much sooner than was at first expected. Poor T—— was called upon to plead to the charge. His counsel, in defence, pointed out to the judge and jury the improbability of a man committing such an act who held a position of great trust in society, and whose character for honesty was beyond all question, as he should prove by evidence of the highest respectability. After his address, the names of the witnesses for character were called, but, as the trial unfortunately took place 24 hours earlier than in the ordinary course was expected, they were not present. The jury, without leaving the box, found him guilty; the judge approved the verdict, and the poor man was sentenced to some years' imprisonment.

“It may be asked, where was the wife all this time? Why was she not present? Wonder not! The day before the trial she gave birth to her sixth child, and from distress of mind was not expected to survive the day through. Fever came on, insensibility followed, and for ten days she was unconscious of everything about her. At the first gleam of returning sense she inquired of her nurse if John had returned home, evidently alluding to his usual return from business; but memory, like a flash of lightning, recalled to her his sad position, and she sank back into the state of insensibility from which she appeared to be recovering. I am not indulging in sentiment; I narrate what I saw. Three weeks later her two eldest children were carried off by an attack of scarlet fever; ten days more her infant died. Within three months from that time she received information from the governor of the gaol that her husband was dying, and that she must proceed immediately to him if she wished to see him alive. She entered his wretched cell. There, before her, lay her husband—a helpless, paralyzed old man—an idiot. His hair, which three months before had not a gray hair in it, was now perfectly white. His age, 35 years. Fortunately for him, he knew her not. Her passionate and heart-rending grief, which wrung the hearts of those around, fell dead on his ear; all human sympathies were gone. Reason was rudely jostled from her seat. He cared not for judge, jury, or policeman, and he gazed unconsciously on the wife of his early and affectionate love and the mother of his helpless children. I need not dwell upon this scene.

“After some formalities at the Home-office he was removed to a private asylum, near London. He was once more a free man, but to what purpose? In a short time he sank and died.

“This was just one of those cases in which it is easy to fix suspicion, and next to impossible to remove it. If no two carpet bags

were alike ; if there were no confusion at a railway-station on the arrival of a train ; no rush for luggage ; but, on the contrary, such order that it would be difficult—instead of easy as it is—to make a mistake ; if the *railway authorities had on their part done their duty, and made proper search and enquiry for T——'s carpet bag, which they would not believe he possessed, but which they afterwards found ; if they had allowed him to communicate with his friends, so as to give him an opportunity before he was consigned to prison of proving that he was not one of the swell mob, as they rashly and fatally suspected, and if he had failed to verify the account he gave of himself—then indeed it might be said that there was a case for a jury. But there was no such case. The man was falsely accused, imprisoned, convicted, and driven mad.*”

Now, there is nothing extraordinary in this case ; although, as it happened to attract the attention of a member of Parliament, it created much sensation. And setting aside everything but the question, as to the admissibility of the evidence of the accused, who can doubt that had it been competent to examine him, his story as to his own carpet bag, would have been found so clear and convincing as to have secured his acquittal ? But his mouth was sealed. Observe that the main evidence against him was something in his words or acts, which he was not allowed to explain. The English law, admitting everything the accused may happen to drop, as evidence against him : but not admitting his explanation at the trial.

There was no fault in the Court in this shocking case. The learned Judge who tried it—no less a judge than Baron Parke—published his notes upon it, when Mr. Brady's letter appeared. How needless. No one would imagine he had erred. There lies the force of the case. The vice was in the system. The poor man's mouth was sealed, *except against himself*. There lies the fallacy of the argument in favour of our system, that, to examine the prisoner would be to run the risk of convicting him by some unexplainable admission. Anything the accused may drop, may be brought *against him*. But his own statements cannot be proved *in his favour*. Still less can he at the trial be heard. This gives much weight to the case above cited. Had the accused been examined he could have satisfied the jury of his innocence. He could have given such minute description of his carpet bag and its contents, as would have convinced them that

he had one. And that at once shows that the mistake would have been disclosed, but his mouth was closed. If such a shocking case could occur before such a great Judge as Baron Parke, what may not be expected to take place before inferior judges or inferior tribunals, where trials sometimes last ten minutes! No one can exaggerate the evil of the present system to the *innocent*. Take the case of Mr. Barber, so lately brought before Parliament, unjustly convicted and transported, simply because, his own mouth being closed, he could call no witnesses to explain certain features in the particular transaction. Compensation was awarded him by Parliament. A clear confession that his unjust conviction was the fault of our system of criminal justice. And at the very same time we are reviling the Roman system! It is hard to say whether ours is worst as regards the innocent or the guilty. The innocent are certain to be convicted, the guilty to be acquitted, unless there happen to be other parties than the accused to prove the facts. Hence persons notoriously guilty escape conviction. Several instances of recent occurrence present themselves. It is a common case, and occurred at Guildhall last sittings, for the judge, with the full concurrence of the jury, and every one else present, to commit a witness for gross perjury, and for that same man, when tried, to escape with ease. The reason is that on the one occasion he is examined, on the other he is not. While these pages are being composed, the writer has witnessed a similar case at the Assizes.

When noble and learned lords, and honourable and learned gentlemen, show such obliviousness as we have seen respecting the laws of this country, we can scarcely be surprised at the ignorance of the newspaper writers. They are as unacquainted with the laws of other countries as of their own. Their "correspondents" sometimes may happen to pick up a little (bad) law of the country they are in, but they know nothing of the law of their own. And hence, they continually fall into the grossest blunders, and make the most mischievous misrepresentations as to the laws of the Italian States. Thus, not long ago, the *Times* Correspondent in Naples thus wrote:—

"An incident occurred here early in the month, not, I believe, generally known, which shows the double subjection to which the

people of this country are exposed, and the folly which, under the name of morality, may at any time expose them to a domiciliary visit, and also to a prison. A Tuscan sculptor called Federico Bernalini, residing in Naples, had in his studio for the necessary purposes of his art, an anatomical statue, considered by some moral persons of a very prurient imagination to be a violation of public decency; whereupon, at the instigation of the *curé*, as I am informed, the police entered his house, took possession of him and his statue, and consigned him to prison. This happened on the 9th inst. In the meantime Signor Frescobaldi, the Tuscan Minister, applied to the Minister of Foreign Affairs, and on the 13th he was released. There are, however, I believe, some proceedings, what I do not exactly know, going forward against the unfortunate sculptor. Since the passing of certain ecclesiastical decrees two years ago, which put immense wealth into the hands of the church, the clerical power, always great, has been much increased, and now, as the guardians of public morality and decency, they can command, and do command, the interference of the police authorities in any case where they think right. As I am informed, it rests with the Cardinal in the city, and the Bishops in the provinces, to empower a priest to summon the police, who have no alternative but to obey. I am most unwilling to misrepresent, and am at all times ready to correct an erroneous statement, but I believe that my account is indisputable, and if so, it is clear enough that the Neapolitan is bound hand and foot, mind and body. Liberty in this country! It is the liberty of existence only which is enjoyed."

The writer of the above was evidently unaware that the British Parliament, at the suggestion of Lord Campbell, had passed an act, the object and effect of which is to place it in the power of any priest, or any layman, to procure, upon his simple oath and application, a search warrant, whereby to search for, and seize any obscene prints, which the magistrates may, upon inspection, order to be burnt. "Liberty in this country!" the obscene printseller may exclaim!

To recur to the book of Farini. He states that in cases of sedition, &c., the accused may not call any witnesses in exculpation, which is certainly, as we read the Code, entirely an erroneous construction, for we see no exclusion of such evidence. But even if there is, it is comparatively immaterial when we recollect that the accused himself is amenable, and that the Roman law, like the English, in criminal cases, gives the accused the benefit of any doubt. The truth is, that the interrogation of the accused makes the whole difference between the French or Roman pro-

ceedings and our own, and renders any comparison between them, or any judgment of the one formed upon a knowledge of the other, extremely fallacious. And if this is the case with those who are acquainted with the law of our country, how much more so with those who are acquainted with the laws of neither?

By this time our readers are probably in a position to appreciate the manifesto which formed the pretext for the insurrection of 1831, and has since formed the staple of all subsequent accusations against the Government of the Papal States.

Farini himself is obliged to admit that France sent M. de St. Aulaire to learn the truth about the matter, and that he declared himself "to be persuaded of the good government of the Roman states," (p. 73,) as other French statesmen have since declared themselves to be: Rayneval, Courcelles, &c.

And here it may be well observed that all competent and impartial testimony is in favour of the Papal Government; for French, English, or Irish Catholic laymen surely are as important witnesses as can be obtained, and if lawyers, or statesmen surely are competent. To the French witnesses we add the names of Bowyer and Maguire. What have we on the other side? Nothing, absolutely nothing entitled to attention save the works of Whiteside and Farini. As to these certainly they are competent, but are they impartial? An Irish Orangeman and an exile at Turin! Taking their testimony, however, for what it is worth—what is it worth?

We will also observe here that there is a singular absence of any distinct and attested cases of grievance or injustice suffered under the system of the Papal Government. We say *system*, for of course no one argues that the servants of the Papal Government never fail in their duty. But still it is a singular fact that we have searched in vain for any one single, definite, attested case of grievance or injustice suffered under the Papal Government. And as we have seen, and shall yet more clearly show, that is more than can be said of our own country, or any other that we know of.

The "Four Powers" recommended "reforms," of which the principal were that the laity should be generally admitted to administrative and judicial functions, that improvements should be made in the judicial system, and that the

municipal system should be restored and extended. As to the "judicial system" we have probably said enough; as to the admission of laymen, Farini himself states that there are 5000 laymen to 300 churchmen. And the only reasons for the preference of ecclesiastics for the higher departments, (except the obvious economical one,) was the very same which indisposed the Papal government to the extension of the municipal system, viz., a distrust, from long and sad experience, of the intrigues of foreign powers, or of intestine faction, among the laity. And that there was reason for this, a curious passage in Farini's work shows very strikingly.

"It cannot be doubted that Austria had from a remote date desired to extend her sway to the four Pontifical Legations, that she had studied the means of acquiring them in 1815, and still cherished the hope of doing so. Accordingly her official *servants murmured against* clerical government, and drew comparisons to its extreme disadvantage with the government of Lombardy." (p. 87.) "Austria wished Europe to understand that the government of the Pope was feeble and in its dotage, and that her troops were indispensable to keep in order the unruly inhabitants of the Legations." (p. 63.)

Can it be wondered at that the Papal government has distrusted the "recommendations" of its allies? Her lay subjects were being tampered with on all sides, and it was only on the clergy, and not always, it appears, even on them, that it could rely.

In truth, to ask that the higher offices shall be lay is to ask that the Government shall not be Papal. And it is plain that what the malcontents desired was the subversion of the Pontifical government. Thus the manifesto of 1845 required 1. That *all* offices, civil, military, or judicial, be given to laymen; 2. That the Supreme Council should be chosen from popular representatives; and 3. That a civic guard should be established. The Papal government would no longer have existed. Here observe the *intolerance* of your "liberal" assailants of the Holy See. The Papacy freely employs laymen. They would proscribe churchmen.

Yet Farini himself testifies to an exceptional state of society in Italy: and the prevalence of secret societies among the laity. "The liberal sects of Romagna" (says Farini) "had begun at an early date to imbrue their hands



in the blood of their party opponents. The example was fatal. Blood brought forth blood."

Mr. Maguire, whose work commences with the Pontificate of Pius IX. (prefaced by a brief sketch in his previous career), discloses quite enough of his narrative of the Roman revolution of 1847, and its antecedents, to show that the real source of the troubles of the Holy See's temporal rule is to be traced to the era of the French revolution and its results. Thus he mentions that the "amnesty of 1831 only gave the opportunity for fresh protestations and fresh plots;" so dogged and implacable was the spirit of revolutionary frenzy kindled in Italy by the infidel fury of the Jacobins.

In another place Mr. Maguire remarks that "it is idle for the people of England to contrast the condition of their country with that of a small and feeble state which has been terribly scourged by war and revolution several times within the present century."

With the Papal government it has been, and is, a question of self-preservation, surrounded as it is by hostile intrigues, and embarrassed by domestic factions they have engendered. The selfsame popular system which in other countries might be innocuous, here might be pernicious, not because the bulk of the people are discontented, but because the badly-disposed would use the power they acquired for the purposes of disturbance.

Ever since the restoration of the Pope, in 1814, the Papal administration has been engaged, as Protestant writers have candidly stated, in trying to remedy the disorders which a quarter of a century of revolution, confiscation, and confusion had necessarily caused, and has been embarrassed by the demand for popular representation and political institutions. The proclamation of 1816 introduced, it is admitted,\* many great improvements, though under great difficulties. So in 1831 new codes of law were issued, which it is admitted were "unquestionable improvements. But the republican leaven led some places to a clamour for elective institutions, although it is admitted that those who roused it "would be satisfied with nothing short of a complete emancipation from the Papal rule," and doubtless desired the electoral institutions to

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\* Spalding's History of Italy, vol. iii. p. 136, note.



promote that object. The Pope perceived this and refused them, subsequent events have shown how wisely. It has been shown that had Leo XII. or Pius VIII. granted what they had refused, the result would have been revolution. Never had the prescience of the Roman Pontiff been more remarkably illustrated. Voltaire\* had long ago mentioned, as a kind of *reductio ad absurdum*, the grant of a political constitution to the Roman States. "It is vain to recall ancient usages, &c.; a citizen of Rome would have as good ground for asking of the Pope consuls, tribunes, a senate, popular assemblies and the complete re-establishment of the Roman republic." These words were prophetic. They implied that to grant a popular assembly or a senate would be to establish a republic. So thought the Pontiffs. Pius IX. yielded, against his own judgment, to the "spirit of the times." Within a few months the republic was established, and he was in exile.

We repeat that the manifesto of 1845, printed by Farini, shows what he elsewhere states as the truth, that the malcontents would be satisfied with nothing short of the subversion of the Papal government. Knowing this, and being resolved to maintain it, Pius IX. resolved also to remove all *pretext* for it, and to place the malcontents in the wrong, by conceding all they professed to claim. The wisdom of the Holy See was never more marked. The result was to show to all the world what his predecessors had always declared, but which the world would not believe, that the question was the maintenance of the Papal government. What that involved is too large a question to be dealt with here.

"Lord Lansdowne, in his speech of the 21st July, 1849, pointing out that 'the Pope, by his temporal power, is but a monarch of the fourth or fifth class, but that, by his spiritual power, he enjoys a sovereignty unequalled in the universe, said *that every state with Catholic subjects has an interest in the condition of the Roman States, and is bound to see that the Pope is able to exercise his authority without being fettered by any temporal influence of a nature to affect his spiritual power.*' "

"M. de Montalembert says, if it be established that the Pope cannot be the subject of a foreign lord, is it not equally clear, and for the same reasons, *that he cannot be the subject of his own people?*

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\* Essai, &c., from iii. ch. 86.

If the chief of our religion is to be free, as regards Austria or Spain, is he not to be *equally free as regards his own subjects*? Why should the Catholics of France consent to see the Pope under the dominion of the Romans rather than of the Russians or the English?"

Pius IX. commenced his pontificate with an amnesty, and was repaid by conspiracy.

"On the one hand," says Mr. Maguire, "was the large-hearted, high-souled Pontiff, abounding in love for his people, anxious to confer upon them the largest amount of freedom compatible with the safety and the preservation of interests sacred in the estimation of the Christian world; and on the other, a band of insane revolutionists, who, gathered from different parts of the Italian peninsula, were sworn to subvert and destroy all forms of government that stood in the path of their reckless ambition."

Had the Pontiff adhered to the policy of his predecessors, and refused all political concessions, it would have been said that he was responsible for what ensued, but as it was, he was exonerated in the eyes of all Europe. The event proved that the acute perceptions of Voltaire and of Ranke had led to the right conclusions, and that political institutions did not suit the spirit and character of the Italian people, and that preceding Pontiffs had been right in refusing them.

—And well might the Count de Montalembert ask, in a pamphlet which was not quite so popular in this country as his last—

"What, pray, has Pius IX. been but the most spontaneously liberal, the most frankly reforming sovereign that exists to-day in Europe? Of all who at this moment are upon the throne, there is not one who has done so much as he for the liberty of his people, not even the King of the Belgians, who only received his crown as the corollary of their liberty; not even the King of Sardinia, who inherited an authority that his father had only acquired after a reign of fifteen years, and under the pressure of circumstances. Pius IX., on the contrary, of himself, from the first day of his accession, before anything outside of Rome or Italy had shown him the necessity of it, not only amnestied all exiles and political *détenus*, but led his people along the path of reforms and liberal institutions, perhaps at too precipitate a pace. That the partisans of retrogression, that the obstinate votaries of routine should have charged him with this as a crime is not a matter of surprise. But in what has he been wanting to the desires, to the requirements of the sincere friends of Italy and liberty? Since M. Thiers cried from the French Tribune, 'Courage, Holy Father, courage!' when has he

been wanting in that moral and physical courage which for every sovereign is even more a necessity than a virtue? M. Thiers has himself recognised this when the orator of 1847 wrote in 1849 that report on the expedition to Rome which will be in honour of his life."

Let the reader attend to what follows:—

"How sad soever may have been the issue of the political reforms inaugurated by Pius IX. in 1846, every enlightened and impartial judge will never tire of congratulating himself upon them. If he had refused all concessions to the spirit of the times, the revolution would not the less have broken out at Rome after the catastrophe of February, and then the vulgar crowd would have declared: The Pope might have spared his people these evils, but he would not: he persisted in an impossible resistance; he has proved that the Papacy is a superannuated institution, incompatible with modern ideas.

"Pius IX., without sacrificing any right or any duty, has given the lie to these sophisms. He has deprived the revolution of every decent pretext. But he has not succeeded in disarming calumny.

"To hear the speeches of Lord Palmerston and his adherents, one is tempted to believe that the Pope has destroyed a constitution as old as centuries—a liberty already popular, and rooted in the Roman States. But who, pray, we ask these strange revilers, who, pray, introduced political liberty among the Romans?—who, not only blessed and sanctioned, but fathered, granted, invented it, if not the Pope? And who destroyed it, if not you? Yes, *you*, by means of your clients the Radicals and revolutionists, already immeasurably encouraged by the mission of Lord Minto, by that incendiary promenade of a semi-official plenipotentiary investing himself everywhere with the right of publicly criticising sovereigns, and exciting populations already inflammable?

"Yes, *you* by your deplorable complaisance for men whose criminal folly you might then ignore, but whom you are inexcusable for encouraging still, after learning by the saddest experience how incapable they are of appreciating, of preserving, of loving that liberty which you have the happiness to possess yourselves, and which you pretend to defend elsewhere. Why do you reproach Pius IX. with what is the exclusive crime of your friends, of your present allies and *protégés*?"

The Count de Montalembert, in his pamphlet published in 1852, "Pius IX.," alludes indignantly to those allies.

"Who at Rome drowned in the blood of M. Rossi, basely assassinated at the foot of the constitutional tribune, all the guarantees given by Pius IX. to the people of Rome, and all the sympathies felt for it by Christian Europe.

“ And what was the pretext chosen for misconstruing, for forgetting, for calumniating the services and the benefits of this great heart? Ah, it is here more than anywhere that we see the injustice and ingratitude of men in general, and of statesmen in particular. Why has Pope Pius IX. been persecuted, besieged, imprisoned, condemned to exile, and dethroned? Not for having refused liberty or guarantees to the most exacting of his subjects, to the most ungrateful of the condemned whom he pardoned: he had given far more than was expected of him—more, perhaps, than was desired. It was solely for not choosing to declare war himself against Austria, and to sacrifice that character of sovereign neutrality, of pacific impartiality, imposed on him by his august mission on this earth. No minister—no politician worthy of the name—should ever forget that noble example of moral courage and political intelligence. Let any one read or hear the accounts of those who took part in that sad crisis, and he will see that the Allocution on the 29th April, 1848, was the signal of the war declared against the Pontiff, because in that Allocution he proclaimed himself the common Father of all the Faithful, and refused in that character to sanction the abuse made of his arms and of his flag against a Catholic power.”

In that publication, from which we have quoted, the illustrious Count showed how the Papal government had suffered from English intrigues, but truth requires us to say that it suffered more from French and Sardinian machinations.

Ever since the French revolution the Roman States have been subjected to the mischievous effects of French intrigues, and especially during the last ten years, in league with Sardinia, these intrigues have been incessant, and were too successful in 1848.

That there is no real ground for complaining of the Papal Government is shown by the manifesto of Massimo d'Azeglio, now the Sardinian Minister at Rome, put forth in 1845.

“ Summary of the reforms demanded by the Marchese Massimo d'Azeglio.

“ The right of petition to be accorded. The right of public audience of the sovereign. Abolition of special commissions and the spy system. An improved code. The opening of all offices in the state to laymen. Reform in the customs. Dismissal of a mercenary army. Formation of an Italian force. Disconnection with Austria. Improved system of education. Abandonment of the lottery. Construction of railways. Economical reform. Encouragement of the scientific congress. The expression of opinion. A government to

be conducted in obedience to enlightened opinion, and directed towards accomplishing the independence of Italy."

Under the auspices of Sardinia. That this is the real meaning is shown by the work of Farini. And this is the true key to the import of the whole of their reforms, demanded, observe, by a Sardinian, not a Roman.

However the real meaning is this—the subversion of Papal government and the substitution of Sardinian. It comes to that or nothing. All the rest is "leather or prunella." "Dismissal of a mercenary force." As though the Papal government were to be the only one disentitled to enlist foreigners! As if it might not follow the example of Sardinia! "An Italian force," that is Sardinian; for it is added, "Disconnection with Austria." Free expression of opinion. That is, full license for Sardinian machination. Abolition of the spy (that is of the police) system, designed for their detection and suppression. As if we had no "detective police" and "secret service," and "special commissions," which have always been issued on occasion in England and Ireland. "Right of petition." As if it did not exist already. "Public audience of the sovereign." That is, popular assemblies to overawe him and deprive him of personal liberty, as in the earlier stages of the French and Roman revolutions. "An improved code." As to that we have spoken already. But of the rest is there need to speak? What real substantial grievance is shown? "Scientific congress." Stuff! Who has ever heard of it since? What care the hungry Sardinian government for scientific congresses?

In place of definite statements of grievances we have vague and idle stories such as these. A man charged with murder brings a friar to prove that he was elsewhere at the time, and the friar was afterwards imprisoned. Well, and what of that? Nothing is told us of the truth or falsehood of the friar's testimony. The accused set up an *alibi*, and it failed. The court believed the friar had sworn falsely, and committed him to prison, precisely as an English or Irish judge would have done, precisely as the English and Irish judges do perhaps every assizes, precisely as we have seen them do, and as they are reported to have done several times during the few last months, viz., commit a witness for giving false evidence. It is not as if the evidence on each side, or the substance of it, were given to

us, as in the cases we cite. Mere anonymous odds and ends of stories, scraps and fragments of hearsay, cock-and-bull stories, are given to us, instead of any valid or substantial evidence. Such things suffice, however, to stimulate prejudice and raise a cry, and that is all they are designed for. The whole truth in any of these cases would destroy any ground of complaint. It is only by giving us bits and fragments that any appearance of injustice or grievance is presented.

The Pope gave the Romans a constitution; they repaid him by revolution. The Prime Minister was stabbed at the door of the House of Assembly, who—an assembly of assassins—sat on as though nothing had happened, and sanctioned processions in honour of the accursed deed! The Roman revolution, was it the result of misrule? If so, to grant a constitution is misrule. Could it fail to unsettle the government? Was it not designed to do so? Remember the policy of the first Napoleon “to bring about a democratic revolution as soon as possible,” with a view to pave the way for French despotism. The policy of the uncle is also the policy of the nephew.

“The mind of Louis Napoleon,” said an able writer in the *Times*, Jan. 19, “was early touched with sympathy for the cause of Italian independence. The first conspiracies in which he graduated were Italian conspiracies, and his first enemies were the *sbirri* of Leo XII. and the Austrian police.” And then the talented writer went on to show clearly that the secret aim of the Emperor’s policy is the lust of territorial acquisition. “He held Rome by a French garrison, he threatened Naples by a diplomatic rupture, and the chance of a Muratist conspiracy, and he encouraged and inflamed the ambitious policy of the court of Turin.” In short he did his worst to keep all Italy in a ferment. “In Naples diplomatic relations were suspended under pretence of an humane interest in the fate of political prisoners, which came oddly from a sovereign who had peopled with French citizens the swamps of Cayenne.” And still more has this been so with Sardinia!

The *Sferza*, a Venetian paper, says, “For years Sardinia has conspired against the security and integrity of the other Italian states,” (and of course principally against that which is the chief power of Italy, the Papal sovereignty). “The cabinet, the parliament, and the press, and the refugees, have all contributed to bring about the



present state of things.” (Times of Jan.) Then the Times of the 4th Jan. descanted thus on the condition of the Papal States: “During the last ten years the states of the Church have, by all accounts, been going from bad to worse.” Meaning, probably, the accounts received *via* Turin. At all events, it is significant that the accounts of Rome should have grown worse precisely during the period when Sardinian intrigues have been most active. The last ten years, too, takes us back to the time of the Roman revolution, when a system of assassination and a reign of terror were inaugurated, which rendered necessary precautionary and repressive measures that continue to this time.

It was under Sardinian inspiration that in the early part of this year appeared a series of attacks on the Government of the Papal States, usually emanating from the *Times* correspondent at *Turin*. One day he wrote thus:

“The measure of reform that would satisfy the Romans is much more feasible, and, in fact, the only real bar to its concession is the opposition of Austria; and it is in the Roman States that France is most desirous to see the demands of the population complied with, at least to the very reasonable extent insisted upon. The Romans of our day are a proud, passionate, determined race, in whose memories still live the great deeds of their supposed ancestors and the fact that their country once ruled the world. They contrast those days of bygone power and glory with their present condition—degraded, misgoverned, the slipper of a priest upon their necks. The bitter reflection weighs upon their hearts till it makes them mad, and they go forth to stab or shoot those to whom they attribute a state of things which they feel that the Pope and his ecclesiastical band could not, unassisted, for a moment maintain.”

Well, and what concessions short of the total subversion of the Papal Government would satisfy this rabid animosity? He went on, however, in language evidently borrowed from Farini’s book (and we should not wonder if the letters were concocted by Farini, the exile at Turin, under the patronage of Count Cavour).

“I have already, both from Turin and from Rome, written to you on Roman affairs *usque ad nauseam*. But the subject is at this moment so important that I cannot refrain from again glancing at it, even at the risk of repeating in another form the substance of what I have already said. What are the demands of the Romans; or, I should rather say, what are the concessions that would con-



tent them, and very probably preserve, at least for some years to come, the tranquillity of Italy? That those concessions do not comprise any very extreme or ultra-Liberal measures is evident from the fact that they are advocated by the present French Government. Indeed when one comes to examine and sum them up, one is surprised at their moderation. The Romans would have an admixture of laymen in the Papal Cabinet, now entirely occupied by ecclesiastics. They desire that the portfolios of the Home Department, of Finance, of Public Works, and of War should be invariably held by laymen. The Departments of State for Public Instruction might be retained by churchmen, while that of Justice might be held indifferently by a layman or a priest, as merit or circumstances made it appear desirable. They would have the Council of State invariably consulted on new laws, instead of these being submitted to them only, as now, when the Minister thinks fit and desirable. They demand a better organization of the system of finance, and a cessation of that perpetual borrowing which has loaded the country with a debt enormous in proportion to its population and resources. They assert, and with great truth, that a proper development of the resources of the country, the construction of roads and of railroads—to the creation of which constant obstacles have hitherto been opposed by the Papal Government\*—would render loans entirely unnecessary. But of such development there is no hope so long as the Government is exclusively in ecclesiastical hands. Much military expenditure could also be lopped off the Roman budget if once content prevailed among the people."

No doubt. But what would content the mal-contented?

"The present constitution of the Consulta of Finance is open to the gravest objections. Its members should be in proportion to the population, and not, as now, by an absurd arrangement one for each province. Other changes should also be made in the mode of election of this Consulta. The members should be chosen by the provincial councils, instead of being selected by the Pope out of four candidates which each provincial council presents; and the Pope should relinquish the right he now enjoys of appointing one-fourth of the members himself, without previous presentation by the councils. Reforms somewhat similar are required in the elections of provincial and communal councils. The members of the former are now selected by the Pope in the following manner:—Every commune or parish sends in a list of three names, and out of these lists the Pope appoints one councillor for each district. But a district consists of several communes, just as a province is divided

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\* An utter falsehood. The railways are proceeding in the Papal States, and are patronized and promoted by the Pope.

into several districts ; there may be six or eight, or perhaps a dozen, communes in a district,—in which case the Pope, or as we should say, the Crown, has 18, or 24, or 36 candidates to pick and choose out of. One might suppose that a Government would content itself with carrying its influence thus far, but such is not the case. His Holiness condescends even to the communal councils, which he chooses out of a number of names presented by the councils, themselves. The reforms the Romans ask for in respect of these elections of councils do not appear to be very violent or dangerous. They would have the provincial councils elected direct by the municipal councils, and they demand the execution and amendment of the law, now existing but not observed, which enacts that the communal councils should be chosen by the most important classes of the population, such as landholders, manufacturers, capitalists, large farmers, and members of the liberal professions, the number of the electors, however, not to exceed, as the law at present stands, six to each one member to be chosen. This last restriction is that which they would abolish. As far as administration goes, these are the main reforms demanded, with the exception of granting to the *consulta* of finance a deliberative vote (it has at present only a consultative one), and of publishing its proceedings and discussions, now kept secret, in the official journals. Another very important stipulation is also advanced with respect to the provincial councils, and that is that they should be allowed to communicate with each other. It may seem incredible, but is nevertheless true, that such communication is at present prohibited. So that if a province desired to undertake a road, canal, or some other public work, which could only be advantageous by being extended beyond its limits and by concert with its neighbour, the project would be frustrated because such concert is forbidden. Such is the wise and sagacious legislation of the reverend rulers of Rome, who have misgoverned their country until they apparently cannot imagine the possibility of combination for useful purposes apart from conspiracy for political ends."

The hint at the end shows that the writer of the above crafty composition, which is evidently founded on Farini's book, if not written by Farini, is quite aware, although he affects to be quite ignorant of the danger which would result from such a system as he proposes. In substance it is the same as proposed by the Revolutionists in 1845 ; for it would come to this : that the finance, i. e. the whole Government, would be in the hands of popular representatives ; the Consulta of Finance being the mainstay of the Government. The fact however is that actual experience has shown what it would lead to. It has been tried. It resulted in revolution and the subversion of the

Pontifical Government. That is what the mal-contents are aiming at. It is mere hypocrisy to pretend otherwise. The principles, and the publications, and the past acts and manifestoes of the malcontents tend to that and nothing short of that.

The manifesto of 1845 claimed the entire exclusion of ecclesiastics from Papal rule. And the dream of Balbo and Farini, and the rest of the Sardinian faction, has always been and is, the substitution of the Sardinian sovereignty in Romagna for the Pontifical, leaving to the Pope a nominal spiritual supremacy. We say nominal, for what else could it be, if the Pontiff should become a mere dependent upon the Sovereign of Piedmont?

It is idle to say that the English have representative institutions, and that they do not lead to revolution. The answer is that the Romans have had them, and that it has led to revolution. The Americans have a larger measure of political power than we have, and the other day the *Times* argued ably that it did not follow that because it suited them it would suit us. So the lesser measure, though it suits us would not suit the Italians. And that the extension of the municipal system is demanded for political purposes no one surely will deny.

What do the malcontents care about municipal institutions except for political purposes? Can any one aware of the existence of the secret societies in Italy doubt that they would use the municipal institutions for their purposes? And then as to political power, we have not yet settled in this country how large a share of it we can safely trust our own people with, and ministries are being thrown out upon the question whether the mass of the people are to have any. A witty member, Mr. Drummond, spoke thus in the debate:

“He did not understand what the present Reform Bill was to do. He could not understand what was its object, or the manner in which that object was to be attained. The last Bill was an act of vengeance by the Whigs on the party that had kept them so long out of power. To attain this end they deceived their master, and they undermined the throne. They coerced the House of Lords, and threatened that if they could not carry their Bill by any other means they would do so by insurrection, and by a resort to blood and battle. They succeeded, and they had some merit in success. All that he understood, but he confessed he did not understand why they were to have this new Reform Bill from the Government. He

quite understood the hon. gentleman opposite (Mr. Bright). He was perfectly honest and fair in what he was doing. He (Mr. Drummond) knew what he was at, and what he aimed at, but he repeated he could not understand about this Bill, or how to meet it. It was said everybody wanted reform, but then came the question what was meant by reform. In reality reform meant to take taxation off yourself and put it on somebody else. That was, no doubt, the meaning of the Bill of the hon. gentleman opposite, though he would not enter into the discussion of that measure till he introduced it. The ultra-liberals, the gentlemen who were further advanced than other people in the way of progress—how far down he did not know—thought fit to meet together in committee-room No. 17, and took it into their heads that there should be reform; then they agreed to ask the hon. member opposite (Mr. Bright) to bring forward a Bill, as, indeed, he was the only man who had honesty and ability enough to carry out such a measure. But everybody knew well enough what it all meant. It mattered little what was the extension of the franchise that might be proposed. After the first Reform Bill was announced, he (Mr. Drummond) said there was no principle in 10*l.* any more than in 9*l.* or 8*l.*, for the truth was, that, once begun, they could not stop short of universal suffrage. How would they stop short? It did not at all follow that it was revolutionary. That which was really revolutionary was to put political power into the hands of men who had no property themselves, but who would take upon them to dispose of the property of those who had. The settlement of this point was the great problem to be solved, but it was not solved by the honorable gentleman opposite, nor was it solved by the Bill which had been brought before them that night. If they preserved political power in the hands of those who had property, then they might amend the franchise as far as they pleased."

That is all very well for people who have property. But for those who have not? How is the question to be settled for them? Had we not better settle it just for ourselves before we settle it for Rome? The truth is that it is only a comparatively small portion of the Romans who care for political power, and they only for the sake of subverting the Papal government. The mass of the people are loyal. If it be said why do the Roman people rebel against the Pope? the question may be answered by the following fragment of a dialogue given by the *Times* correspondent in India, as having occurred between himself and an old Sepoy. He praised the Company's rule. I said, why, then, did you revolt? He answered, that it was the bad. I said, why did the good follow the bad? He answered, because ten bad men being violent carry the weak along

with them, and the good are trodden down. A similar answer might be furnished by a reference to France at the Revolution. But a better answer still is afforded in an able Letter just published by Lord Monck, in reply to a requisition for new measures of coercion in Ireland.

“There is in almost all countries a portion of the people which, either from natural temperament or other causes, is disaffected to the Government and desirous of change; and that such a class—rapidly, however, diminishing both in numbers and in moral and intellectual weight—exists in Ireland no one can deny. The power of that class in Ireland was tried in 1848, under circumstances most favourable to its development, and the events of that year, as it appears to me, justify Irish politicians in excluding Irish rebellion from the category of possible events.”

Just so in Italy. Twenty years ago an intelligent Protestant writer upon Italy testified that the real object of the malcontents was a republic. And since then the Revolution of 1848 has abundantly verified the statement.

All the complaints made of the Papal Government resolve themselves, when rigidly sifted, into dislike of any Papal Government, and of Ecclesiastical rule in general; not on account of any proved incapacity or inefficiency, but on account of prejudice against ecclesiastical rule, as being ecclesiastical. All other charges are vague and idle, or are notoriously false. Thus, this session, Lord John Russell spoke as follows:

“With regard to Central Italy, of which the right hon. gentleman has spoken, be it observed that it is the interferences of Austria which have excited the jealousy of France. Accordingly, in the early part of Louis Philippe’s reign a French force was sent to Ancona to counterbalance the interference of Austria in other parts of Italy. Again, in 1848, Austrian troops interfered with the Government of the Legations, and a French division was immediately sent to Rome, and captured Rome, and according to the statement of almost every official person in this country then representing France, it was done entirely because France did not choose Austria to have the entire command and dominion over Italy. But the jealousies of those two great Powers have resulted in misery to the unfortunate people over whom that military force has imposed a government which is most distasteful to them. For, be it observed, the Emperor of the French, not wishing to impose bad government, wrote himself a letter in which he pointed out what might improve the condition of the Roman people,—the introduction of the Code Napoleon, secular administration, and other provisions. But that

advice was not taken. The Austrian Government is in many respects a very enlightened Government ; but it is not the Austrian Government at Bologna and Ancona, but it is the Austrian forces and the French forces which impose upon that country about the very worst form of government that any country ever had. Those who doubt this may consult various works describing what has been the case with the Papal Government. Among others there is one very interesting and amusing work by the present Attorney-General for Ireland. He travelled in Italy, and he is not content with a superficial view, but he gives you parts of the code of the Roman State, and he points out how inconsistent those provisions are with anything like justice and freedom. I have heard myself the way in which every attempt at improvement is frustrated. They said at one time, 'Let us have a secular government, and let the ecclesiastical officers be replaced by secular officers.' Well, secular officers were sent to them, but they were men so ill calculated to create confidence, and so entirely without character, that the poor people said, 'Let us have the priests back again, or let us have a cardinal, or anything in preference to these people.' Thereupon it was argued that they were not in favour of a secular Government. In the same way it was said that the people did not want municipal institutions. Before the French Revolution there were municipal institutions. The people very much governed themselves. The French destroyed all these municipal institutions, but they put in their place a good administration of justice, and what is called an enlightened despotism. Since 1852 they have neither municipal institutions nor an enlightened despotism. They have every kind of corruption and oppression. If persons are required to pay allegiance they should receive protection from the Government, and in what respect is protection more required than in the administration of justice ? It is one of the first objects of government that there should be justice between man and man ; that criminal justice should be fairly administered ; that civil justice should be had without corruption ; but I happened to be reading, I think last night, a description of the Roman Government by a noble friend of mine, a member of the other House of Parliament, Lord Broughton, and, as his description is contained in a very few words, perhaps the House will allow me to read it. This is his description of a Government, let it be recollected, that for the last ten years has been carried on by the aid of foreign forces. Lord Broughton says :—

“ If under this theocracy there were a tolerably impartial administration of justice—if the lives, persons, and properties of the citizens were secured by any contrivance, it would be no great hardship to submit to the anomaly of receiving laws from the altar, instead of the throne. But the reverse is notoriously the case, and there is scarcely a single principle of wise regulation acted upon or recognized in the Papal States.



“The first principles of criminal jurisprudence seem as much forgotten or unknown as if the French code had never been the law of the land ; a secret process, a trial by one judge and a sentence by another, protracted imprisonment, disproportioned judgments, deferred and disgusting punishments, all tend to defeat the ends of justice and to create a sympathy with the culprit rather than a reverence for the law.

“I read two years ago in this house a statement, on good authority, that the confessions of several persons accused of crimes could not be taken, because they were confessions made under torture. This is the usual administration of justice.”

The last statement is upon the face of it false, and refutes itself. If torture is usual how came the confessions to be rejected? The truth is, there is no more torture in the Papal States than in England ; and that the noble lord knows full well. There is as much truth in the statement as in Lord Broughton’s unintelligible phrase about deferred and disgusting punishments. Is our “penal servitude” agreeable? Can it be that Lord John was descending to an equivocation founded upon Mr. Whiteside’s phrase, “mental torture by interrogation of the accused,” which is practised in Scotland and France, and of which we have spoken already? Passing by that, let the reader carefully note if there is anything specific in the above statement, or anything to be gathered from it but a dislike of the Ecclesiastical Government as such, and simply because it is ecclesiastical? But we have already adverted to this passage in our notice of Lord Broughton’s work ; we contrast it with what is found in a very popular work, Murray’s Hand-book. He thus describes the Roman States:—

“We know nothing more delightful than the unaffected hospitality which the stranger meets with in the smaller towns, or the security felt among the open-hearted people. *We have explored the least known and least frequented districts—have traversed the mountains unprotected, and have dwelt among their most remote villages for days together, with a sense of security which we have never had occasion to regret.*”\*

Lord Broughton’s admission, however, is a large one, and we claim the benefit of it. “If there were a tolerably impartial administration of justice—if the lives, persons, and

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\* Murray’s Hand-book, Introduction.



properties of the citizens were secured by any contrivance, it would be no great hardship to receive laws from the altar!" Well, we appeal to any one who has ever lived in the Papal States, whether there is not a tolerably impartial administration of justice, and whether the lives, persons, and properties of the subjects, are not secured, at least except against the dagger of the assassin, against which no law can guard. In the work of Farini, there is no fact stated whence it can be inferred that there is not an impartial administration of justice, and that the persons and property of citizens are not protected.

What does Lord Broughton mean by the "first principles of criminal jurisprudence being unknown or forgotten?" We have already dealt with that subject, and shown that in some respects, the Roman law deals more tenderly with the accused than ours. What does Lord Broughton mean by "disproportionate sentences?" That is a kind of charge only to be supported by a careful comparison of cases.

We have seen that the manifesto against the Papal Government, makes it matter of complaint that the penalties on crimes were regulated by their moral turpitude. It cannot be said that in this country they always are so, and, in this respect, we repeat, England has still much to learn from Rome. Any one who reads the reports of our criminal cases, must be struck at the painful disparity between the punishments allotted to different offences. Very often this is so apparent that it excites the popular feeling, and produces complaints either by the press or other public modes of manifestation. Celestine Somner, the most ruthless murderess of her own daughter, was reprieved, for what reason no one could tell, and Lord St. Leonard asked in vain. And that is only one out of a host of such cases. The case of the poor woman, Mary Newell, is still pending.

"A feeling of very general sympathy has been evinced in Reading for this unfortunate young woman, who was tried and sentenced to death at the Berkshire assizes, for the murder of her child, by throwing it into the river Thames, near Caversham Mill, in consequence of the heartless conduct of her seducer. Immediately after the trial, a memorial to the Queen, praying for a commutation of the sentence, was prepared, and in a few hours it received a large number of signatures: among them are those of the mayor of Reading, borough and county magistrates, town councillors, clergymen, and members of

the medical and legal professions. The father of the child is a poulterer in the town, and, on the evening of the murder, the unfortunate young woman took the child to his shop: he coolly told her he could do nothing for her, as he was 'keeping company with some one else,' and went out of the shop, leaving her. The woman went away, maddened by his brutal conduct, and it was admitted that she threw the child into the river; her counsel contending that she was under such excitement as to render her irresponsible for her actions."

The jury, however, under the direction of the judges, brought it in murder.

"The official announcement in the *Times* that the execution of the sentence of death, passed upon this unhappy woman, had been respited, gave intense satisfaction to the inhabitants of this town, who had taken great interest in the case since her conviction, feeling that the crime for which she was doomed to forfeit her life, resulted from the callous and remorseless conduct of her seducer. The chairman of the visiting magistrates of Reading gaol, most laudably interested himself on behalf of the convict, and forwarded a letter to the Secretary of State for the Home Department immediately after the trial, urging many powerful reasons in favour of the sentence being commuted."

The Secretary of State for the Home Department, under the circumstances, felt warranted in advising Her Majesty to commute the convict's sentence to *penal servitude for life*. But the poor woman had become insane. The medical attendant wrote:

"She was admitted into an asylum, by order of the Secretary of State, in a fearful state of maniacal delirium, produced, as one might naturally infer, by the mental agony she endured both before and after her conviction. She was brought there by three officials of Reading Gaol, well secured in a strait waistcoat; this mechanical restraint having been at once removed, she was put to bed, and the most active measures for the relief of her brain were immediately resorted to. For some days she continued in a very violent state, and only the faintest hopes could be entertained of her surviving the shock. Improvement, however, commenced about the sixth day after her admission; she became more tranquil, natural sleep succeeded, and daily improvement was established."

So wrote the Doctor: earnestly urging a further commutation, which has not taken place.

But savage homicides have comparative impunity. We have, on a former occasion, drawn attention to the subject, and shown the comparative leniency with which our law

visits offences against the person, as compared with offences against property. Take two cases lately tried before two of our ablest Judges,—we quote the *Times*.

“Ann Tulloch, and Matthew Wilson, were indicted for the manslaughter of Joseph Scott, at Newcastle. The deceased, accompanied by some men, went to the house of the female prisoner, in Newcastle, about half-past 2 in the morning. The men ordered beer; the female prisoner made use of some bad language, and wanted 5s. for a bottle of whiskey. The money was not given to her, and at this time the prisoner Wilson went out of the room. Mrs. Tulloch and the deceased were then talking together, and she was seen to give him a blow on the nose. Scott got into a passion at this, and on Tulloch rather rushing towards him, he struck at her and hit her on the eyes. Tulloch then got into a great passion, and swore she would murder the—— before he left the house. At this time Scott was very drunk. The other prisoner, Wilson, then entered the room, and Mrs. Tulloch pointed to her eyes and said, ‘see what he has done to my eye.’ Wilson then immediately struck at Scott several blows in the passage near the taproom, in which the female prisoner was. She cried out, ‘Push the—— into the room.’ Wilson then pushed Scott into the room, and continued striking him and driving him into a corner, when Tulloch seized hold of a quart glass decanter and struck him a blow on the back of his head with it. She repeated the blow, and it fell on Scott’s hand, which he had raised to protect his head. On removing his hand the female prisoner gave him a third heavy blow on the head with the glass decanter. Blood flowed, and the deceased fell on his face on the seat. One of the witnesses present cried out that they had murdered him. Wilson then pulled him off his seat, and he fell with his face in the blood on the floor. The female prisoner then seized him by the hair of his head, and lifting him from the blood gave him a kick in the side, saying, ‘Is the —— not dead yet?’ The police shortly after entered the house, took the prisoners into custody, and removed the deceased. The policeman said it was a bad job, and the female prisoner produced a decanter, and said, ‘She did not care a ——, she would kill a better man than him,’ and Wilson, the other prisoner, said, ‘It served him right; look at her eye.’ The deceased was found insensible, with a deep wound at the back of his head about an inch long, which bled profusely. He died about a week after, and a *postmortem* examination discovered his skull to have several fractures running from two centres.

“The jury found the female prisoner *Guilty* and *Acquitted* the man.

“His Lordship, in passing sentence, said the provocation the prisoner had received was very great; but he could not overlook the brutal manner in which she had assaulted the deceased. He

should not inflict so severe a punishment on her as he would have done on a man under the same circumstances, and he thought justice would be satisfied by her being sentenced to 12 months' imprisonment with hard labour."

One years' imprisonment for a horrible homicide! The same sentence is constantly inflicted for petty offences against property. We blame not the judges. The spirit of the English law is marked by greater tenderness for property than for life or blood. Foreign jurists have observed it. And may they not retort upon England the charge of "disproportioned sentences?"

"William Hinner was charged with the manslaughter of his wife. There was also another indictment against him for assaulting his wife and thereby causing her bodily harm.

"The prisoner, it appeared, had been married to the unfortunate deceased for 20 years, and she had borne him 14 children, and there could be no doubt that for some time past he had treated her very brutally, and during her last confinement, he had behaved towards her in the most violent manner, threatened to strike her, and deprive her of fire and the other comforts she required.

"A son of the prisoner stated, that about three months before his mother was confined with her last child, he was awake one night by hearing his mother call for assistance, and upon going into the bed-room, he found his father in a very violent and excited state, and he dragged his mother out of bed by her hair.

"A neighbour of the prisoner who, it appeared, kept a beer-shop at Lee, deposed that he had seen him drive his wife out of the house without either bonnet or shawl, at 12 o'clock at night, and he at the same time made use of violent and disgusting language to her. Upon another occasion he saw him dragging the deceased along by her hair, and striking her with his fists. The police were applied to, but they refused to interfere because they had not seen any blow struck.

"The Recorder had alluded to it in his charge to the grand jury, and in all probability the poor woman's life would have been saved if the police had interfered when they were requested to do so.

"The midwife who attended the deceased during her three last confinements, stated that on every occasion the prisoner behaved in a most violent manner to his wife. He compelled her to get out of bed when she was not in a fit state, and upon one occasion the deceased told her that her head was very bad in consequence.

"Baron Bramwell, in passing sentence, told the prisoner that although the charge of manslaughter could not be supported, he had evidently been guilty of great brutality towards this unfortunate woman. He should not allow the fact of her death to operate

upon his mind in the judgment he was about to pronounce, but should merely pass such a sentence as would be calculated to deter others from the commission of similar acts, and that was that he should be imprisoned and kept to hard labour for one year.

Take another case, before Mr. Justice Crompton.

“William Hollis was charged with wounding Martha Hollis, his wife, with intent to murder her, and also with intent to do her some grievous bodily harm.

“He came home, and found his wife with her pots upon the fire, and about to wash, and he took the pots off the fire, and, having thrown the water about the room, went out. The wife, being afraid that he would return, locked the door. The prisoner then went to his workshop, and came back with a hammer, and tried to get in at the door, but failing in that, he made an entrance by the pantry window, and then struck his wife with great violence upon the head with the hammer. The poor woman was stunned by the blow, and her skull was fractured in two places, and for some time her life was despaired of. Her dying declaration was taken, but, fortunately for the prisoner, she had since recovered.

“The jury found the prisoner guilty of wounding with intent to do grievous bodily harm.

“His Lordship, in passing sentence, said it was fortunate for the prisoner that his wife had recovered, for, if she had died, he would certainly have been left for execution. As it was, the sentence was four years’ penal servitude.”

A sentence four times as severe as in the foregoing cases, but not more than poachers constantly receive: just as much as Smith received for a deliberate endeavour to murder—while at the same assizes a man had ten years for forging a bond. What disparity of sentences!

No country is less entitled than ours to reproach other nations with defects or vices of criminal jurisprudence; our own is not very effective in repressing crime, as a glance at the papers will show. The other day a woman was convicted, and it appeared that she had been transported for seven years, the greater part of which term she served, and had served out a sentence of four years’ penal servitude. Other convictions were put in evidence.

“The Assistant-Judge said, after the warnings the prisoner had had, it would be *useless to sentence her to imprisonment or to penal servitude for any short period*. The sentence upon her, therefore, was ten years’ penal servitude.”

Soon after a youth of twenty was indicted for a robbery with violence, and stealing 2d. The prisoner made no

defence, and the jury found him guilty. He had been previously convicted, and was well known to the police as an associate of desperate thieves.

“The Assistant-Judge said it was impossible to allow a delinquent guilty of such a desperate outrage on the public highway, and with such a character as the prisoner bore, to infest civilized society, and the Court, in the discharge of its duty, with a view to the safety of the public passing along the streets, must pass upon him a sentence that would remove him for some considerable time from the scene of his operations, and at the same time be a warning to others. It was a robbery committed under circumstances of the grossest brutality upon a lone woman in the street at night. It was a mere accident that he only robbed her of twopence; it might have been much more. He had been convicted before; he was the companion of persons as lawless and desperate as himself. The sentence upon him was that he be kept in penal servitude ten years.—The prisoner, Thank you. *Ten years for twopence.*”

Another youth of twenty, convicted of feloniously breaking and entering a shop, and stealing therein two watches, was brought up for judgment, and sentenced to three years' penal servitude.

At the assizes for Reading, before Mr. Justice Crompton, a labourer was charged with setting fire to a rick of barley.

“The prisoner handed in a well-written defence. This was read by the officer of the court, and showed a considerable knowledge of criminal jurisprudence. He chiefly relied for his defence on the entire absence of motive for the commission of the crime.

“The jury found the prisoner *Guilty*, and a previous conviction was found against him for setting hay on fire in 1851, when he was sentenced to seven years' transportation.

“The prisoner then said, that now he was found guilty he admitted he was guilty, and added, that if Her Majesty had sent him out of the country when he was convicted before, he might now have been as respectable a man as the prosecutor. He said he did not wish for mercy, and that he had set fire to the rick in order that he might be sent out of the country.

“Mr. Justice Crompton said, prisoners were not tried and convicted of offences to be sent out of the country as honest emigrants, and the prisoner would find that the sentence he was about to inflict was not a light one. His Lordship then sentenced the prisoner to eight years' penal servitude.”

A very respectable-looking young man pleaded guilty at Hertford to no less than four indictments charging him with stealing horses.

"The counsel, who appeared for the prisoner, said he had pleaded guilty by his advice, as it was impossible to offer any answer to the charges against him. He was, however, instructed to state that the whole of the offences were committed *within a period of six weeks*, and that down to the period when the first horse was stolen, the prisoner *filled a respectable position*, and never had the slightest imputation cast upon his honesty. He also said he should be able to show that during the period the prisoner had been in the gaol he had behaved in a most exemplary manner, and he proposed to call the governor of the gaol to speak to that fact.

"Mr. Baron Martin said it was rather a novel proceeding to him to call the governor of a gaol to speak to the character of a prisoner, but the learned counsel might take his own course.

"Mr. Hatchard, the governor of Hertford gaol, was then sworn, and he stated that the prisoner had behaved exceedingly well during the period he had been in his custody, and he had willingly and readily conformed to the regulations of the prison.

"Mr. Baron Martin, in passing sentence, said it appeared that the prisoner had stolen four horses within a very short period, and that he sold them immediately afterwards and got the money. The governor of the gaol had been called to prove that he had conformed to the regulations of the prison since he had been in confinement, but he imagined that every prisoner would be compelled to do this whether he was willing or not, and it did not appear to him to affect the case in the slightest manner. It was a very bad offence, and he felt it his duty to order the prisoner to be kept in penal servitude for *six years*."

Again, we read that a man was charged with feloniously entering the dwelling-house of Lady Gooch, Charles Street, Berkeley Square, and stealing a quantity of property.

"The case for the prosecution being completed, a superannuated sergeant of Metropolitan police, gave evidence that the prisoner was a ticket-of-leave man, his real name was Botwright, but he had him in custody for a burglary at Brompton in the name of George Clark, for which offence he was convicted on the 10th of November, 1851, and sentenced to fourteen years' transportation. He was, however, discharged from Portsmouth (Stirling Castle) under what is termed a 'license,' dated October 27, 1857, the number of which is 7,372. The witness added that the prisoner had been eight or nine times convicted, and formerly and now was connected with a dangerous gang of thieves and housebreakers. The prisoner was committed for trial."

Again committed for trial, to put the prisoner to more expense, as to which we read t



detained in Newgate awaiting their trial, amounts to the sum of 100*l.* a year for each.

"In the report of the city expenditure for 1857, p. 24, will be found most of the items, the grand total of which is a yearly cost of 10,600*l.*, which divided by 106, the average number of persons detained, makes a sum of 100*l.* as the cost of each, paid for out of the pockets of the industrious ratepayers. For this choice little parish, of a few thousand square yards, the chaplain is paid, as formerly stated, 500*l.* a-year, nearly 5*l.* each soul; the doctor, 190*l.*, or 1*l.* 15*s.* 10*d.* for each body; and the governor, Mr. Weatherhead, 400*l.*, or nearly 4*l.* each, for taking care of them, assisted by a staff of persons, whose united salaries amount to 1,900*l.* Nice thing to be a thief in England! On these 106 rogues is expended a sum of money equal to the whole income of 352 country labourers, at 30*l.*—a large estimate, if the statements be correct, of the poor persons who, living in Wiltshire and Suffolk, tell their own tale in the Times. Now, if we reckon the families of these as of four persons only, it will be found that the 106 persons in Newgate consume an amount of treasure yearly equal to that of 1,408 honest people. Thus, one thief costs as much nearly as five good men, women, and children. This corruption is enough to destroy the wealth and vigorous virtue of the greatest nation on the earth."—*City Press.*

Our readers will perceive that the principle which we have adopted in this article is to meet the charges against the Roman government, by contrasting them with the actual working of our own much-lauded systems. In so doing we are of necessity desultory in our illustrations: and as we find that our materials greatly exceed the limits which, on this occasion are at our disposal, we shall at once break off with the intention of resuming the subject in the July Number of this Journal.



ART. X.—*Memoirs of the Court of George IV.*, 1820—1830. From original family documents, by the Duke of Buckingham and Chandos, K.G. 2 vols. London: Hurst and Blackett, 1852.

THE title of these volumes is clearly a misnomer, so far as it purports to contain the “*Memoirs of the Court* ;” its title should have been restricted to “original family documents ;” and it is as such that the volume is of very considerable interest and value. Our readers are doubtless aware that the publication of these family documents is charged by the son of Mr. Charles Wynne, to whom they, to a very great extent, relate, to have taken place by the editor in direct breach of a written undertaking given by the preceding Duke, his father, to whom the letters were addressed. This charge, so far as we are aware, has been allowed to remain uncontradicted ; and so far as we can judge from the contents of the letters themselves, nothing can be more probable than that Mr. Wynne should have asked, and that the late Duke (a man of high character, though of slender abilities) should have given an undertaking that their private and confidential correspondence should never see the light. We had intended to have included in our present notice of this correspondence a brief exposition of the law in relation to the question of the unauthorized publication of private correspondence ; but our limits prevent our so doing, and the more so, as it is only necessary to refer such of our readers as wish for information on the subject, to the ordinary treatises on the law of “injunction,” and to a recent decision of the Court of Chancery in reference to certain letters connected with Lord Cardigan. It is, however, well for the public, to understand the limited right which the receiver of a letter has in its contents ; and that such a publication as that in question, without the special authorization of the writer or his representatives, is as deficient in legal as we believe it to be in moral propriety. We believe that the son of Mr. Charles Wynne might have prevented this publication by the strong hand of the law if he had thought fit to do so. But “*fieri non debet, factum valet*,” and the public is in possession of a mass of evidence which doubtless throws very considerable, but, we regret to say, in many respects, melancholy and scandalous light upon the working of

public affairs and the domestic annals of King George IV. These documents have (*per fas aut nefas*) become public property ; and as such must become the subject of public comment ; and, however it is to be regretted, the public will draw inferences which many friends of monarchy and constitutional government must see deep reason to deplore. In truth, we are so far attached to the monarchical form of government as to have always felt a sort of shame at those revelations which (however necessary to historical truth) grate painfully on those who would wish to feel increasing respect for the institution. So that to our personal feelings, nothing can be more distasteful than such publications as the Lectures of Mr. Thackeray on the Series of Georges, and Mr. Carlyle's Frederick, and we regret to add the present publication. These Volumes contain innumerable and confidential references to the intercourse between the king and Lady Conyngham, and of these we shall transcribe some few specimens. For example :—  
“ He ” (the king) “ has never been out of Carlton House. Lady C—— goes to him of an evening, and he has had his usual dinners of Sir Carnaby Haggerston, Forester, and two or three of this description. His language is only about the coronation and Lady C——, very little of the state of the country.” (vol. i. p. 20.) To the words Lady C—— are appended an editorial note, to explain who is the lady referred to. We may here observe on the very great inconvenience of inserting initials only which constantly occurs in this work, but in a way not to conceal, but to embarrass and give trouble to the reader and break the narrative ; for wherever anything in the slightest degree scandalous or “ spicey ” is to be found, it is certain that the reader will not be at more than a moment's loss to discover the parties who are referred to. Again : (vol. i. p. 51.) “ He grows daily more unpopular, and is the only individual in the kingdom insensible to it. He sees Lady C—— daily, and had a part of his family at dinner this week, she the only exception.” It was in this state of his domestic affairs that Lord Conyngham condescended to accept a peerage at the hands of the Royal “ Lover,” (see p. 180.) and still more extraordinary, to undertake the duties of Lord Chamberlain, (vol. i. p. 83.) so as to be the constant spectator of the royal proceedings. Vol. i. p. 59, contains the following : “ The k——'s party consists of very few ; the principal object of course the Lady C——, who is here.

They ride every day, or go on the water, or drive in a barouche; the k—— and her always together, separated from the rest, and in the evening sitting alone apart...and among the guests present was Lord C——." (p. 83.) The following is a description of his Majesty's personal habits. "When he had dined (professing to have no appetite,) he ate as much as would serve me for three days, of fish, but no meat, together with a bottle of strong punch." The influence of the Lady is exhibited, (i. p. 168, 169, 177,) "Lady Conyngham is the great link upon which this" (a proposed change of ministry,) "hangs, and the opposition ladies are courting her to a degree, and with success." "If the king dared turn them out he would; that is, he would submit to the influence of Lady C—— in so doing." (p. 178.) "Her sole object was patronage, and patronage alone; that she mingled in everything she could, and it was entirely owing to the necessary interference of the government on one or two points, and the offence given by Lady Castlereagh, in not inviting her, that her present animosity to the government proceeded, and the consequent difficulties with the king." Many more passages to the like effect we had marked for quotation, but we will confine ourselves to one only to justify the phrase we have used above on no less an authority than that of Mr. Thomas Grenville, (ib. p. 180.) "My expectation is, that more or less immediately the influence of the Lady will effect the change that she is supposed to be working for, more especially as I believe her *Lover's* vanity would rather be flattered by the ostentation of displaying her power and influence on this subject in spite of the manifest impropriety of her appearing in public affairs, and the hazard which might attend such a manifestation in times like the present, and with the jealousy which the public mind has already shown upon these topics." (See also pp. 194, 196, 265, 354, and particularly p. 200.) In p. 209 is the following strange passage: "Lady C—— seems to hazard a good deal in letting her husband and two sons perform the part of deputy guardian angels while she remains behind, especially if Lord Londonderry be in favour again, since he may contrive to bring some rival charmer to view." In pp. 337-8 the reader will find the history of a strange contest between Lady Conyngham and the Duchess of Richmond, the two ladies respectively setting up as rival patrons of the "Irish Ball," the King and the Duke of York. The "Lady"

thoroughly defeated the Duchess. Her supremacy, however, was seriously threatened, if we are to trust to the following ; of Lady C——, (ii. p. 44.) “it is very generally reported that Lady L—— is said to be the successor.”

In parting with this odious topic, we cannot but congratulate ourselves and our fellow countrymen on the contrast which these volumes present to the state of the Royal Household, which has all but uniformly clung to the present Reign, commanding the universal respect of the nation, and strengthening immensely the ties of affection to monarchical rule.

The above extracts will suffice to show the character of these Letters ; but in regard to their general interest, and the important topics to which they relate, it will be well to inform the reader that they contain Letters of the King, the Duke of Clarence, (William IV.) the Duke of Gloucester, the Duke of Wellington, the Marquis Wellesley, Lord Plunkett, the Viscompte de Chabot, Mr. Plummer Ward, and others who did not form part of the family circle. Those of Mr. P. Ward will be found particularly interesting ; but the substance of the work consists of the letters addressed to the Chief by the Family Clan, Lord Grenville, Thomas Grenville, Charles Wynne, and above all, Mr. W. H. Freemantle, with some few letters of Dr. Joseph Phillimore. Nothing can more surprise one in perusing this correspondence than the tone of “clanship” which pervades the whole, and the notions of his own self-importance which the “chief” was inspired to entertain, and which (i. 367, and ii. 10.) occasionally led him into somewhat false positions. This small party were so placed as to be supposed to be able to turn the scale between the two political parties, with each of whom they felt their way. (i. p. 173.) The “Iron Duke” seems to have had the duty of bringing about the conquest, and much must he have disliked the task if we are to judge by his manifest contempt for all but the votes of the party. The bargain, however, was made, and for this small support they squeezed out of the Government, (1) for the Chief a Dukedom, with special limitation of his Earldom in favour of his daughters failing male issue, (2) a place in the Cabinet (no less than the Indian patronage,) for Charles Wynne, (3) two places at a Board, no matter what, for Freemantle and Phillimore, and (4) according to the Duke’s version, a

right to a second seat for the Duke himself in the Cabinet if he should condescend to take it.

We cannot forbear to quote the business-like mode in which the Doctor's part of the matter is arranged. (i. 253.) "Dr. Phillimore to the Marquis of B." "I may perfectly well hold one of the Commissionerships of the Board of Control, and continue the exercise of my profession; if this be so, and you see no objection, it really seems to me that if they refuse to turn out the King's Advocate, it would be most desirable that you press my going with Wynne to the Board of Controul, upon the understanding, that, upon the death of Lord Stowell, I should succeed him as Judge of the Admiralty.....It must, however, be understood that I am not to be a Privy Councillor, as that would prevent my arguing causes before the Privy Council." And to avoid any mistake, the Doctor reduces the proposal into more specific language, and stipulates that he is to be Commissioner, &c., "with a salary." The Commissionership, without the Right Honourables, accordingly he obtained; but, unhappily, the government would not "turn out" the Queen's Advocate, (could they have done so by law?) and when Lord Stowell died, the Doctor did not succeed to his high office; but nevertheless, we think he got a sufficient *quid pro quo* in the salary, without duties, which he contrived to hold for many years, during which he continued to practise his profession. It need scarcely be said that this party never succeeded in obtaining any considerable position, and appear to have conciliated neither of the Premiers, Lord Liverpool, and Mr. Canning. The former, indeed, (I. p. 272, 381, 395, 398, 494,) seems to have treated poor Mr. Wynne with marked contempt; such as surprises one on the part of so amiable a man; and Mr. Canning did his best to get rid of Wynne (I. p. 381.) by cajoling him into giving up the Governor Generalship of India (to which he had an eye, but he was unable to manage the Directors) and to accept the Speakership, of which there seemed a probable chance which was marred (as our older readers may remember) by the unhappily jingle of "Speaker" and "Squeaker." Many of us can recollect the "squeaking" voice of the President of the Board of Controul, and its contrast to the "bubble" and "splutter" of his Chief, Sir Watkin; but possibly they may not remember the lines attributed to Canning,

and which we are not unwilling to recall by way of setoff against the Doctor's Letter, which we have quoted above.

“ There's a difference between  
Old Phillimore and Wynne,  
And I'll tell you the reason why ;  
Old Wynne is a bore  
And so is Phillimore;  
*But then he don't spit in your eye.*”

Our readers will have collected, that whatever its defects may be, this correspondence is full of entertainment, and in many respects, of very important political information ; for example, how pregnant is the following (II. p. 171., C. Wynne, to the D. of B., Dec. 1, 1824) “ Liverpool talked to me for some time to-day on the subject of Ireland. He said he could but look to two ways in which the question was to be settled finally, either to give up the Church to the Catholics, or that the dispersion of the Bible should convert the population.” Would that modern Premiers would hold this doctrine ; and we believe none would be found credulous enough to believe in or rely upon the second alternative. We have said enough to induce all who delight (as we do especially) in genuine letters to make themselves masters of this publication. But we must confine our approval to the original documents, for, we are bound to say, that the office of editor was never less efficiently performed ; there being a total absence of anything like editorial diligence or illustration ; and the text which connects the correspondence, being of the most meagre and jejune description. How differently would the duty have been performed if these important papers had had the luck to find such an editor as Mr. Ross, of whose excellence we have elsewhere had the pleasure to state our opinion.

Among the most interesting of the Letters are those of Mr. Plummer Ward, the celebrated author of “ *Tre-maine*.” The following are specimens.

“ Meanwhile, as all is packed up for the present, the Duke has been to amuse himself at Mrs. Arbuthnot's, and from Mrs. Arbuthnot's to Lady Jersey's, keeping both ladies, and, what is more, both gentlemen, in good humour. He has been cruelly ill, however, and alarmed every body with his looks, denoting what is the fact, a total want of power to sleep, from nights perpetually feverish. He is a little better, but still not well, while Lord Liverpool



is far better than he has been for very many months. Whether his, and the Chancellor's retirement after next Session (which ministers themselves now expect) added to Gifford's total inefficiency in politics will make any difference, your Grace can better tell than I; but it should seem that an Ultra Government could not stand in the House of Commons. I have been sometimes asked if I know how your Grace was disposed, which of course I should not have presumed to answer, even had I known, had the question proceeded from quarters of sufficient consequence, or in such a shape as to make an answer necessary."—Vol. ii. p. 120.

"Lord Prudhoe is just returned from Sweden, and favoured me with a visit, which I mention, because he says it is a pretty well received opinion there, that there will be a revolution soon in a *quiet way*. The King is utterly without consequence or personal interest. Nobody, not even the meanest, notices him whenever he appears, and he seems powerless even with the soldiery. There is a considerable feeling for the exiled family, and some for Prince Oscar; but all agree as to the nullity of Bernadotte! All, however, depends upon Russia; and to judge of the manner and language of that Embassy, Lord P—— says nothing can be more slighting. They call him, without concealment, the *Parvenu*. He sometimes dines with the ambassador, and goes away soon. On one of these occasions, as soon as he had left the table, the Secretary of Legation, before all the company, said, 'Well, *now the Parvenu is gone*, we will do so and so,' and this is so common Lord P—— says, that it challenged no sort of notice. Bernadotte affects the greatest consideration for us which does not help him with Russia. In particular, he has given mortal offence to the magnanimous by having ordered his minister in Spain, in all things to follow the politics of ours, and he accordingly identified himself with Sir W. A'Court. There are other sources of difference between us and Russia, of which we may possibly hear more. I mean the question of sending troops to Lisbon, which the Emperor, it seems, insists shall be done, but which we not only refuse ourselves, but oppose by anybody else. The discussion had been very unpleasant, and was not over a fortnight ago. Lord Prudhoe said Bloomfield was liked at Stockholm. Not so Fitzgerald, who was haughty and distant, thought the Swedes bores and half-bred; the ladies did not dress well enough to come between the wind and his nobility, and the hours were 'hideously' unfashionable, all which opinions he was by no means at pains to conceal."—Vol. ii. p. 133-4.

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## NOTICES OF BOOKS.

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I.—*The History of Herodotus.* New English Version, by G. Rawlinson, &c., assisted by Sir H. Rawlinson and Sir J. G. Wilkinson. In 4 volumes. Volume III. Murray, 1859.

We continue our notice of this work of which, on its completion, we hope to give an account commensurate with its great merits. The third volume, which we now announce, contains Books 4, (Euterpe) 5, (Terpsichore) and 6, (Erato); and the 4th Book conducts us through the Scythian campaign of Darius, and the author's narrative of Scythian history, customs, &c. We are next carried into Lybia and Africa, and the histories of Cyrene and Barca are fully developed. This book is illustrated by three essays, (by the translator we presume,) the first on the Cymric and Celtic races, migrations, language, &c. the second, (on the Ethnography of the European Scythians,) disproves their supposed connection with the Mongols, and establishes their Indo-European character as a race distinct from Slaves, Celts, and Teutons, but a race now extinct. This Essay contains a list of all the Scythian words of which the meaning is certainly known, and a list also of those, (being names of gods, men, and places,) the meaning of which may be surmised. By a careful examination of these materials, the author appears to us to establish satisfactorily that the European Scythians of Herodotus were really members of the great Indo-European family, by the only sure test of their language, which out of a very small number of words presents no less than thirty to forty roots capable of identification with well-known Indo-European terms. To lovers of this species of inquiry the investigation is full of interest. The third Essay relates to the Scythian geography of Herodotus, and contains a vindication of the authority of the Father of History against the adverse theory of Niebuhr, and we

think the vindication is complete. The 5th Book carries the reader on to the Persian conquests in northern Europe, and contains accounts of Thrace, Macedonia, &c. It then returns to Asia, with the stirring events at Miletus, Sardis, and elsewhere, ending in the Ionian revolt. That great revolution led to the connection of the eastern world with Sparta and Athens, the early histories of whose respective constitutions are illustrated by two Essays, which, by their examination of the conflicting theories of the great modern writers on these subjects, appear to us to bring out a very lucid statement of many matters on which it had been no easy task to reconcile the views of Thierwall, Grote, Mure, and others, on numerous questions of political history. Those who study constitutional history cannot fail to find in these Essays abundant materials for thought and instruction. The 6th Book carries the story from the burning of Sardis to the great battle of Marathon, and the fate of Miltiades; and we need not say how stirring is the narrative of these events of world-wide fame. The story of this celebrated battle-field is most carefully examined and illustrated in an Essay which appears to us to establish the real relative numbers of the combatants, the causes of the delay in the attack, the absence of the Persian cavalry, and the marvellous results of the action, which is properly classed by Professor Creasy among the turning points in the history of the world. We think, in a new edition of his interesting "Great Battles," the Professor will do well to consider the light thrown on this question by our translator's Essay. The volume is illustrated by an Herodotean map of Scythia, and also by an excellent map of the Persian satrapies, which more properly belongs to the preceding volume. In addition to the maps, there are upwards of thirty illustrations by woodcuts and otherwise, of the author's text, and by these means, and the numerous valuable notes of the translator, and his very able assistants, the work has been rendered a real and substantial addition to our previous knowledge of the numerous and interesting topics to which the volume relates.

II.—*Spiritual Conferences*. By F. W. Faber, D.D., Priest of the Oratory of St. Philip Neri. London, Dublin, and Derby, Richardson and Son.

We have received in due course this very valuable work ; but regret to be obliged to postpone the notice of it which we had intended for this Number. So far as we can judge before a full perusal, it is well worthy of this illustrious author.

III.—*Winchester Pamphlets*. No. I. “Delusions and Superstitions of the Irish Catholics,” discussed in a series of Letters between the Rev. C. Bowen and the Rev. J. Collingridge. Dolman, 1858.

There cannot, we think, be any doubt of the expediency of tracing to its source, and exposing every palpable falsehood, which may be put forward by bigoted hatred to the prejudice of the Catholic faith and practices. A more glaring instance of monstrous fiction than that of Mr. Bowen at Winchester, in November 1857, and which gave occasion to the “Winchester Pamphlet,” can scarcely be imagined : but the falsehood of the allegations is, if possible, excelled by the cowardly and impudent avowal of the absence of even one tittle of evidence in support of any part of the case ; and if anything can carry conviction to our erring neighbours of the real nature of nineteen-twentieths of what is alleged by popular preachers and orators to our prejudice, it will be such well-merited chastisement and exposure as Mr. Collingridge has inflicted on his Rev. correspondent. If No. II. of the “Winchester Pamphlets” be equal to its predecessor it will well deserve the approbation of every impartial reader.

IV.—*The Patrons of Erin ; or, some account of St. Patrick and St. Brigid*. By W. G. Todd, D.D. Catholic Publishing Company. London, 1859.

Great things has Dr. Todd done for us, and still greater do we look for from one who brings to the work a zeal, intelligence, and knowledge, rarely to be met with, combined with peculiar fitness for the duty he is now engaged in, of promoting popular and devotional reading in an attractive form. The present work (which, as to getting up, size, and price, is most creditable to the Publishing Company,) appears to us to be a model of the sort of reading which is wanted for our less wealthy classes, and will prove as we hope the forerunner of a very long series.

V.—*Winchester Pamphlets*, No. 2. Catholic Publishing Company. London: Warren Winchester.

We expressed our hope of the continuance of this series, and we are not disappointed. No. 2 exposes the imposture of a person who called herself the Baroness de Camin, and who pretended to have been a novice in a nunnery at Winchester, from which her husband had enabled her to escape, and who is reported in the *Standard* (July 2, 1858) as “a young woman who bore every indication of having suffered the confinement of a nunnery.” The exertions of the Reverend Mr. Collingridge compelled the editor of the “*Hampshire Chronicle*,” who had circulated the story, to admit that it “was without the slightest foundation,” and that the “Baroness” never was a “novice,” but had been a “domestic servant.” These exposures are calculated to open the eyes of the less prejudiced of our fellow countrymen, and are to be encouraged to the best of our ability. The Pamphlet No. 2, contains also two treatises, “*Luther and St. Paul*,” and “*Church of England and the Te Deum*,” and exhibits what the author very justly designates two manifest impostures; but for the particulars we must refer our readers to this useful and well-timed little work.

VI.—*Catholic Association for the Suppression of Drunkenness*. Under the protection of our Blessed Lady of the Immaculate Conception. London: Burns and Lambert, 1859.

This little work contains the rules of an admirable society, established under the sanction of the Lord Bishop of Newport, &c., on the Feast of the Immaculate Conception, in 1857, for the object of suppressing drunkenness and establishing a penny bank and a musical association. And there is the promise of an early publication of the “*Rules for the Funeral Society connected with the Association*.” These objects must command the sympathy, and, we hope, will receive the active support of the wealthier portion of the Catholic body, and we will do our best to give circulation to its objects and wants.

VII.—*The Imitation of the Child Jesus*. Translated from the French, by an Irish Catholic Mother. Catholic Publishing Society. London, 1859.

This little work conveys most valuable instruction for children, in the form of dialogues between two children, which are of great simplicity, beauty, and clearness. The machinery is, that an elder boy, called "his good angel," instructs his junior in all the leading duties of our holy religion, which are carried step by step through the day, from awaking, rising, prayer, mass, meals, school, work, recreation, confession, retiring to rest and sleep; to which are added, discussions on the duties of obedience, &c., and a series of very beautiful instructions on "the Imitation of the Child Jesus," which are in like manner carried through the duties of the day. The work cannot fail to be of great service in the instruction of children.

VIII.—*A Lecture on the Siege of Londonderry, 1688-9*. By the Rev. Joseph M'Cormick, B.A., Curate of Regent Church. Wertheim and Co., Judd and Glass. London, 1859.

We presume this mass of insolent bigotry is forwarded to us with the intention of raising our bile and provoking us into controversy. But we shall content ourselves by observing that in our judgment a work of such manifest unfairness and ferocity is calculated to serve rather than injure our cause wherever it may fall into the hands of those who are not pledged to its war cry of "no surrender." We regret to see attached to it the name of the publishers of another little work of which we have had the pleasure to express our approval.

IX.—*The History and Antiquities of the Anglo-Saxon Church*. In two vols. London: Catholic Publishing Company, 1858.

This is a reprint of Dr. Lingard's immortal work, and that in a cheap and accessible form, and we hail its appearance with very great satisfaction, as evidence of the demand for information on the important subjects with which it deals;—information which cannot fail to remove prejudices and facilitate the return of our more enlightened erring brethren into the bosom of the Church. The reprint of a sterling work is in our judgment a more important service than the publication of a new but inferior one.

X.—*Father Connell.* A Tale by the O'Hara Family. New Edition, 8vo. Dublin: O'Byrne and Co. 1858.

Our readers who recollect the impression produced by this true picture of the religious life of the Irish people, at its first appearance, will unite with us in welcoming warmly, this cheap and excellent reprint. It is now many years since we expressed our opinion on the merits of *Father Connell*. The phases through which our national literature has passed since that time have made us feel more strongly what we then wrote. Others of the O'Hara Tales excel it in variety of incident and interest of plot; but in this there is more real knowledge of the depth of the Irish character, and especially of its simple earnestness, and sincerity, the depth and fervour of its religious feelings, the tenderness of the domestic affections, even in the very rudest and most uncultivated; and the true nature of the relations which subsist between the people and their much calumniated clergy. Never have these been depicted with so much vigour and truth as in this remarkable story.

We congratulate all who are interested in the promotion of a truly national literature, representing the modest virtues, as well as the more salient characteristics of our people, on the republication of "*Father Connell*" in so cheap and attractive a form; and we augur well from the selection of this, as we believe, the first publication of the new firm from which it comes, for the future career of these enterprising publishers.

XI.—*History of Frederick II. of Prussia, called Frederick the Great.* By Thomas Carlyle. In four volumes. Vols. I.-II. London, Chapman and Hall.

We can but record in our present Number the publication of these volumes, the first instalment of Mr. Carlyle's long-promised *History of Frederick the Great*. They can hardly be considered as more than an introduction, only carrying the history down to the death of Friedrich Wilhelm, Frederick's father and predecessor on the throne of Prussia. But they exhibit all the well-known characteristics of the author, and all his peculiarities, both



of thought and manner. The subject is one which we have long desired an opportunity of examining; but we are reluctantly compelled to reserve till our next Publication the notice of Mr. Carlyle's volumes which we had prepared.

**XII.—*Irish Melodies*, with Symphonies and Accompaniments. By Sir John Stevenson, Mus. Doc., and Characteristic Words, by Thomas Moore Esq. New Edition. Edited by J. W. Glover, Esq. Dublin: James Duffy.**

The expiration of the copyright of the first and by far the most popular division of the *Irish Melodies* has called into the field a host of rival editors, professing to place within the reach of the entire musical public what has hitherto been accessible only to a favoured few. Of the several editions of this portion of the *Melodies* which have appeared, there is none which can be compared with that named above, for accuracy, convenience, elegance of execution, and tastefulness of arrangement. None of these new editions, it is unnecessary to say, contain the later *Melodies*, the copyright of which is still unexpired. But from whatever cause it has arisen, the later *Melodies*, although many of them are among the happiest emanations of the pen of Moore, have never attained, even in Ireland, that universal and enthusiastic popularity with which all the early numbers were received; and thus it happens that the first six numbers, which are comprised in Mr. Duffy's edition, contain, with hardly an exception, all those popular songs which have become household treasures in almost every Irish home.

Among Mr. Duffy's many services to the literature of our country, there is none which will be more gratefully acknowledged. It supplies all that was needed to make Moore what he always aspired to be, in the largest sense of the name, the Bard of Erin.

XIII.—*The Psalms, Book of Wisdom and Canticle of Canticles*, translated from the Latin Vulgate, diligently compared with the Hebrew and Greek, being a revised and corrected edition of the Douay Version, with Notes Critical and Explanatory, by Francis Patrick Kenrick, Archbishop of Baltimore. Baltimore: Lucas Brothers.

Archbishop Kenrick is making great progress in his important undertaking. The present portion of his revised Douay Version is dedicated to His Eminence Cardinal Wiseman, and well maintains the high character of the portion which has preceded it. This is not the time for any critical examination or remarks, but we can assure our readers that in the Archbishop's very valuable notes they will find an immense quantity of important and interesting illustration, in collecting which numerous and varied sources of information have been explored with very great industry and discretion.

XIV.—*Blind Amos and his Velvet Principles*. By Edwin Paxton Hood. London: Judd and Glass, 1859.

There is great merit in this little work, which contains "Proverbs and Parables for Young Folk," and which are conveyed through the doings and sayings of "Blind Amos," who, with his granddaughter Melly, goes about to do all the good in his power, by means of the "Velvet Principle," i.e., the use of soft words and kind actions, which turn away wrath. The stories are very well told, and there seems to be a complete absence of sectarian bigotry, though (as we collect) the author is the pastor of the "Oxford Road Chapel." We strongly recommend this work to our readers.

XV.—*Man and his Dwelling-Place*; an Essay towards the Interpretation of Nature. London: J. W. Parker and Son, 1859.

This work gives us very serious pain, because we cannot fail to perceive in its writer an anxious yearning after something spiritual, and yet, to our conception, every line of his book is a complete abnegation of every part of real religion. Every received idea of existence, Sin, Salvation, Heaven, is to be rooted out, and a new set of fundamental ideas is to be adopted and applied to human existence. We will not venture to deal with such a work in any other way than by exhorting our Catholic readers

to spare themselves the uneasiness to which we have exposed ourselves, at finding how awful may be the conclusions to which a pious mind may be driven when deprived of the guidance of infallible authority.

**XVI.**—*Christian Considerations ; or Devout Meditations for Every Day in the Year.* By Father Crasset, S.J. Translated from the French by Mrs. Dorsey. First American edition. New York: O'Shea, 1858.

From the preface we learn that of the pious author of this excellent work it is known only that he was a member of the great society, and published this work in 1683, nine years before his death. It had a large circulation in France and Germany, but so far as we are aware, is now made known to the American and English reader for the first time. The Meditations are eminently practical and suggestive, and are so short as to be within the reach of even the most busy, for the most part falling short of a page, and each of them is followed by "Words of Scripture," which are selected for enforcement of the subject of the day's meditation. The man of the world, who will abstract from his ordinary pursuits time enough to read through these short portions of spiritual food, and can acquire the habit of turning his thoughts from time to time, in the short intervals of business, to the subjects thus propounded, will find himself to be a man of God as well as a man of the world; and in the course of his yearly passage through our author's volume, he will find that he has received instruction of the highest class for his guidance in every emergency and conflict of duty, in which he can possibly find himself in need of assistance and protection. The obligations of the Catholics of the united kingdom to those of America are rapidly increasing, but we believe that very few contributions will be found more valuable than that which we now earnestly recommend to all our readers, but especially to those who can spare only a short space for the great duty of meditation.

**XVII.**—*The Healing Art, the Right Hand of the Church.* By Therapeutes. Edinburgh: Sutherland and Knox, 1859.

It is to be regretted that a writer who can bring to this interesting subject a great amount of learning, and in many respects very accurate conceptions, should deface his

work with an incredible amount of anti-Catholic bigotry. In his second chapter he discusses the curative use of oil, and comments with great force on Mark vi., 12, 13, "The twelve went out and preached that men should repent, and they cast out many devils, and anointed with oil many that were sick, and healed them," and in this regard describes them as "the most complete exponents of the character, position, and purposes of their Master." It seems, therefore, strange that he should ignore the inspired directions of one of these very apostles on this very subject, and should bring himself (p. 82) to describe the sacrament of Extreme Unction as "a mean and incomprehensible rite," as "absurd and pitiful," although he proceeds to admit that it is "based upon views quite as consistent with divine truth as many other ideas on this subject which are cherished even in Protestant churches." In page 171 our author asserts that an almost universal prejudice prevails against any alliance of medicine with the priesthood, and he talks of "the evils and abuses which attended the discharge of it by priests and religious orders." After these specimens it seems strange that we should recommend the perusal of this work, and we can do so only to those who may be curious to look over a considerable accumulation of very interesting matter to which very few of us can otherwise command a ready access.

XVIII.—*A New English Grammar.* By M. D. Kavanagh, of University College, London. London: Catholic Publishing Company, 1859.

This little work is entitled in a considerable degree to the merit which it claims of simplicity combined with systematic arrangement. In addition to "Grammar," as usually dealt with, the author has chapters on "Derivation" and "Composition," which although by no means profound, or as regards the latter, very correct, according to our judgment, yet are well calculated to assist the young for whom it is intended. There is a large assortment of examples; and an accurate appreciation of the contents of this work would be found of service to a large portion of our so-called "educated" population.

# THE DUBLIN REVIEW.

JUNE, 1859.

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ART. I.—1. *Resa til Norden* af M. A. Castren. (Travels to the North, by Matthias Alexander Castren.) 1 vol. 8vo., 1852. Helsingfors.

2. *De la Finlande*, par Leouzon le Duc. (On Finland. By Leouzon le Duc.) 2 vols. 8vo. Paris, 1845.

IT is not easy now to find a portion of Europe unvisited by English tourists, undescribed in some brilliantly coloured book of travels, and even unnoticed by English sportsmen, though containing abundance of game both for the rifle and the salmon rod. Yet not only is this the case in regard to Northern Russia in Europe, but eastward of the Dwina between Archangel and the Oural, the wild Samoiede is a stranger to the light of Christianity, while the half converted Lapp on the Western shore of the White Sea, still makes in secret, offerings to his rude divinities, and more than half believes in Wäinämöinen and the other deities of the Finnish mythology. From the confines of Norway to the boundaries of Asia, there extends along the shores of the Arctic Sea a desolate barren tract, but yet not entirely uninhabited, nor destitute of objects of interest. No English traveller in recent times has visited this coast, no tourist has sketched its features, no scientific explorer from this country has deemed it worthy of examination. During the war the English public heard of Archangel and of the White Sea, of Kola, and of the great Solovetskoi monastery, but few, if any, know the stern features of Russian Lappmark, or the still wilder scenes of the Samoiede Tundra. Indeed, Finland itself, whose shores are visible

to the traveller, as he steams up to Cronstadt, is hardly better known. There is no striking and magnificent scenery ; no huge precipices and mighty waterfalls ; it is a land of lake and forest nearly in a primitive condition, unprovided with easy modes of transport, and destitute of accommodation for travellers. A few adventurous anglers have tried a river or two within the Russian frontier, but have wisely abstained from chronicling their success, while the ships' captains and naval officers who have traversed the White Sea during the open season have rarely ventured to land, and have added nothing to our knowledge of the country. Of late years the Russian Government has collected many documents of great value relative to the different countries that own her sway, and has engaged men of science of every nation, but chiefly Germans, to investigate the languages, natural history and antiquities of these different districts. Unfortunately few of the works published in Russia on this subject have arrived in this country, and not many of our countrymen are competent to understand the languages in which they are composed. The two works here noticed are both devoted to the illustration of Russian territory alone, and to that part of it which comprises Finland, and the still wilder districts on the west side of the White Sea. Matthias Alexander Castren visited Russian Lappland on several different occasions, traversing the northern coasts from the Varanger fiord to the river Dwina, and penetrating in various directions through the country to obtain a thorough knowledge of its features and of its widely scattered inhabitants. Leouzon le Duc spent his time in Helsingfors, in the society of the élite of Finland's gentry, but he has given us valuable information relative to the present condition of that country, since it came under the rule of the great Russian Czar. In the department of Finnish literature there are few more honoured names than that of Castren. By his lectures and researches on the Finnish mythology, by the sparkling story of his travels, and by his immense labours in elucidating the various dialects and languages of Karelia, Lappmark, and Finland, he won imperishable fame in Russia and in Sweden. In the latter country, his translation of the Kalewala, the wondrous epic poem embracing so much of the Finnish mythology, excited great attention. In the year 1852 however, a sudden stop was put

to his labours by severe illness, which, to the regret of all his friends, and to the irreparable loss to science, terminated in an early death. His great work on the mythology of Finland and many philological essays of great value were left unfinished, but some of these have since been published in their incomplete condition.

Castren was a Finlander by birth, and at an early age his attention had been drawn to the great stores of song and of tradition preserved in the wild regions of his native country. Through his exertions, as we have already stated, the collection of mythic epic poems known by the name of the *Kalevala*, first noticed by Porthan, and subsequently gathered and arranged in regular order by Dr. Lönnrot, were made known to the northern world by an excellent Swedish translation. Shortly afterwards the *Kalevala* was translated into German by Schiefner, and half of Leouzou le Duc's work on Finland is occupied by a prose version of the same epic, which is not more dull or more faithful to the original than such versions generally are. To the English public, the mystic *Kalevala* is almost unknown, though Longfellow has recently made popular its measure, by adopting it in his much admired poem of *Hiawatha*. No translation however, can approach the mellifluous cadences of the original Finnish verse. But the subject of Finnish literature with the *Kalevala* and *Kanteletar* of Dr. Lönnrot must be deferred to another time; we speak here of Castren only as a traveller, and of northern Russia in a physical point of view.

Castren set out on his first northern journey on the 23rd of June, 1838. On that day he left the town of Tornea at the head of the gulf of Bothnia, and proceeded up the Tornea river as far as Muonioniska, a station well-known to those who have studied Edward Daniel Clarke's or Sir Arthur de Capel Brooke's northern travels. Here he diverged from the ordinary route leading to Alten, and made his way up the country to the north-east, along the line of the Tana river, which separates Norway from Russia. This great stream is now not entirely unknown to English sportsmen; it contains salmon of immense size and in great plenty, and like the Alten and the Namsen will soon be in the hands of wealthy Englishmen, to the exclusion of all poorer brethren of the craft. Perhaps ere these lines are in print, some of our adventurous countrymen may have found their



way into Russian Lappmark, and have fished the streams which flow from the great Enare lake, or that which passes the town of Kola, the last outpost of Russian civilization in the north. It was towards the great Enare lake that Castren directed his journey. The mode of travelling was exactly that pursued in North America between the lakes and the Red River settlements, and indeed throughout the territories of the Hudson's Bay Company. Their light boat had to be dragged over long and heavy "portages;" they had to shoot down fierce rapids, and pole their way slowly up shallow rushing streams. The travellers carried no tent, but bivouacked under the canopy of heaven, preferring, at that fine season of the year, a couch in the open air, to the filthy noisome huts of the Laplanders. In this wild district the spirit of ancient legendary lore was not extinguished. One of his boatmen on the Peldojoiki surprised Castren by striking up a song of Wäinämöinen, the great hero of the Kalevala, but it turned out that he was a native of Karelia, on the western shores of the White Sea, and which has ever been the home of Finnish song and legend. It is only recently that the inhabitants of Russian Lappmark have been converted to Christianity, and the mountain Lapps, who range the hills with their reindeer, are many of them still pagans, paying reverence to their "Seitas," or rude deities of stone, and invoking the aid of their magicians "Schamanen" when visited by sickness or misfortune. It is curious in the far north to find the well-known legend of Fingal and the baby perpetuated in the story of Olof. This was a celebrated Lapland hero, who passed his days in constant strife with the Karelians, and at length a party of that nation swore to kill him or perish in the attempt. Olof being aware of their intention, and seeing them approach, dragged up to his mountain home a ponderous fir-tree, and laid it before his door, hiding himself afterwards in the adjoining forest. His foes now approached, and astonished at the size of the tree, inquired who had borne such a ponderous log up the steep mountain side. She answered that Olof's son had done this, and forthwith his foes departed, deeming it unsafe to encounter an individual whose son exhibited such gigantic strength.

Paiwo, or Paiwya, was one of the earliest converts to Christianity in these wild regions. His conversion took place, it is supposed, about 200 years ago, and his memory

is still held in honour amidst the Lapps and Fins. All his three sons were famous warriors, and all spent their days in constant warfare with the Russians, who were even then slowly forcing their way into the country. Isak, the second son of old Paiwo, was a celebrated archer, and his deeds rival those of our English Robin Hood.

“It is recorded that at the head of a band of Russians that entered Lapland to plunder, there was a man clothed from head to foot in copper armour, so as to be absolutely invulnerable. This coat of proof entailed, however, the inconvenience that the individual encased in it could not feed himself, but his meals were administered to him by his attendants. Isak had long followed this redoubtable party, and one day from his ambush he watched the moment when the copper-clad warrior opened his mouth to receive a savoury morsel held out to him on a fork by his attendant, when, with unerring precision, Isak launched a shaft from his bow, and hitting the end of the fork drove it deep into his enemy’s throat, inflicting a fatal wound.” (p. 22.)

To the name of the third son of Paiwo is attached the legend so universal over the north of Europe, of his having acted as guide to a party of marauding Russians, who by night were traversing the frozen slopes on snow shoes. With torch in hand the son of old Paiwo led the way at a fearful rate, till on reaching the brink of a precipice he dashed the torch into the gloomy depths beyond, turned rapidly aside, and had the satisfaction of seeing his enemies dash over the cliff, misled by the light he had cast from him.

Such were the wild traditions with which Erik and Jessio, our traveller’s two boatmen, beguiled the labours of this terrible journey. Seated by their bivouack fires at night, and warmed by the brandy bottle, the unfailing means of opening the heart and refreshing the memory of a Russian Lapp, or of a Finlander, they would relate or sing to him legend after legend, all stamped with their peculiar Finnish character, and bearing the impress of a pagan origin. At length, after many difficulties and dangers, they reached the great inland lake of Enare, in latitude 69, and not far from the Norwegian frontier. In fact, that frontier extends along the shore between the lake and the sea, as far as the point beyond which the influence of the Gulf Stream does not extend, and where the ocean is closed by ice throughout the winter. It is

this narrow strip of land belonging to Norway that is so coveted by the Russian government, and so obstinately refused by Sweden and Norway, for the possession of it would give to Russia an open winter harbour in the northern ocean. As our traveller approached the Enare lake, the frightful barrenness of the Lapland hills was replaced by gently swelling pastures, the river no longer rushed on as an impetuous torrent, but flowed gently through the grassy plains. To his great astonishment he found here, instead of the wretched Lapland huts, some well-built Finnish houses, surrounded with meadows and pastures and other evidences of cultivation. The hamlet of Kyro, at which he had arrived, is on the banks of the river Ivalo, which flows into the Enare lake. The settlement was founded several years ago by an emigrant from Kittilä, one of the most impoverished villages on the route from Alten to Tornea. At first it did not prosper, for the wolves devoured the flocks, and one of the sons of the proprietor appeared one day at Kittilä, after years of absence, and disposed to a near relative of the house and lands of Kyro, which he represented as in good condition, and as standing on the banks of the Ivalo river. Thomas Kyro, who purchased the property, set out with his wife in the early spring to take possession of his newly-acquired farm. While Thomas steered his boat laden with household utensils down the rapids of the Ivalojoeki, his wife conducted their flocks along the banks. When they reached the indicated spot they found it utterly desolate, not a house nor a trace of cultivation was to be seen. But Thomas Kyro was nothing daunted, he was a true pioneer in the wilderness.

“If there was no house,” said he, as he told his story to Castren, “there was at least wood wherewith to build one, nor did we require a horse to drag the timber from the forest, for I felled all the trees we wanted on this very spot where the house now stands. I have converted the sandy flat before the house into a green meadow, and this now feeds thirty cows and sixty sheep. ‘Ah!’ broke in his wife, ‘but, Thomas, you have not told the gentleman that the wolves destroyed in one night the whole of our sixty sheep.’ ‘True, true, they did so, but have we not received a silver medal for our perseverance, and a silver cup, too, out of which two great noblemen have done us the honour to drink?’” (p. 40.)

Leaving Kyro and its brave colonists, our traveller

floated down the Ivalo into the great lake of Enare. The compass seems to be unknown to the rude navigators of this inland sea. His boatmen dared not venture on the lake at night, for at sunset heavy mists rise from the cold surface of the water, and shroud the countless islands of the lake in darkness. On the island of Iutuaa, where there is a Lapp village, our traveller remained for some days. The Lapp population on the banks of the Enare lake are now all Fish-Lapps, living almost entirely on the produce of the lake. They are all Christians, and are many degrees advanced in civilization beyond their brethren of the mountain and of the forest.

From the Enare lake Castren had another arduous journey to the parsonage of Utsjoki, on the Tana, which here divides Russia from Norway. Here he found the well known Lutheran pastor, Stockfleth, who had devoted himself for many years to the spiritual and temporal welfare of the Lapps. Stockfleth was evidently a man of superior genius and energy, such as is rarely to be found in these far northern regions. Instead of shutting himself up in winter in his comfortable dwelling, he made friends with the wild population for many miles around, traversing the wastes on snow shoes, camping out in the bitter cold of a Lapland winter under the shelter of a friendly snow-drift, or flying with his rein-deer sledge over the frozen waters of the lakes. He repaired the ruined church, rebuilt the parsonage, and then, in the midst of winter, brought his young bride from Finland to this desolate spot. She too must have been a woman of no ordinary spirit to undertake such a fearful journey, sleeping night after night in her sledge in the open air, while the wolves howled around them, and the snow drifted over their heads till it formed a canopy over their couch. At length they arrived at Utsjoki, and a young friend who had accompanied them, (what English bridesmaid would undertake such a journey?) assisted in putting their new dwelling into order. One night in the early part of the year, when Stockfleth himself was absent on a journey, the parsonage took fire, and was burned to the ground, the ladies barely escaping with their lives. Stockfleth thus described his feelings on his return :—

“It was a fearful moment when, two days after the fire, I came in sight of the smoking ruins of my dwelling. My

with its long day's journey of forty miles, could not accelerate its pace, and I sprang out of the sledge, threw off my heavy clothing, and ran down the hill to the spot. Meanwhile the thought occurred to me that to Sodankylä, the nearest dwelling to the south, was a distance of 95 miles, while Vadsoe, on the north, was still further off, and moreover that my poor wife was now advanced in pregnancy. There were two or three roofless huts standing apart from the ruins of the main building, but not a living being could I see about the place. The horrible dread pressed upon me that my wife and her companion had either perished in the flames, or that if they had escaped this danger they had been frozen to death in endeavouring to make their way over the mountains. But the next moment they both emerged from one of the roofless dwellings."—p. 63.

In civilized life, where assistance and the kind sympathy of neighbours are always to be found, a fire is no ordinary calamity, but in a desert like Utsjoki, it is a visitation indeed.

From Utsjoki Castren turned southwards to the head of the Enare lake, and thence to Sombio and Sodankylä. In Sombio he found the inhabitants reduced to the lowest degree of starvation. For seventeen years in succession the Autumn frosts had ruined their scanty harvests, and they were now no longer able to procure even the bark bread, half birch bark and half oatmeal, which is used in Finland in times of scarcity. They were reduced to substitute straw for the oatmeal, and this year even that miserable resource had failed. The ground bark was now mixed with grass, the *Cerastium vulgare*, and on this miserable fare they attempted to prolong their existence. Many now thought of emigrating to the shores of East Finmark, where they would be able to obtain from the sea a scanty living.

As the river Luiro was too shallow for a boat, Castren determined to make his way on foot to the church of Sodankylä, through the fearful morasses that extend in this direction for nearly forty miles. It was with the utmost difficulty that he could procure a guide. At length a man presented himself as a conductor, averring that he had repeatedly traversed these dreaded marshes, both when drunk and when sober, and by night as well as by day. Such a guide was invaluable, and accordingly the next morning they set out on their expedition.

"The sun had hardly risen when we commenced our journey."

At first our way led through a pleasant and dry tract of ground, but ere long this was exchanged for the hideous and dangerous marsh. It was not without a feeling of terror that I first set foot on these quaking bogs, which were in part covered with moss, and elsewhere showed only the bare surface of mud. Our guide seemed to share our anxieties, but we encouraged him to proceed by copious supplies of food and brandy. Armed with a pole of eighteen feet in length, he walked before us, carefully sounding the depths as he advanced. We were cautioned to follow exactly in his footsteps, as, accustomed from childhood to traverse these morasses, he could discern at once the spots on which it was safe to tread. From time to time he caused us to halt, while he walked on before, sounding the depths of the mud, and then, when the dangerous part was passed, he turned to us, and directed us by his voice and staff to follow him. It was no easy task to preserve ones presence of mind on these occasions, for the guide's footsteps had disappeared, and the surface rose and fell with our weight, like the waves of the sea. At intervals we came upon small rocky eminences, where the surface was dry, and these to our exhausted limbs seemed a soft couch of repose. Here our guide never failed to demand fresh supplies of meat and drink, and in return he imparted to us numerous tales of hairbreadth adventures and escapes. One day he had a curious adventure with a bear. Returning from the church he came upon a she bear, with her two cubs, which had taken refuge in a tree. He was very drunk at the time, but had sense enough to reflect that it was not safe for him to attack these animals while he was in this condition. He accordingly laid himself down close to the tree to sleep the liquor away, hoping to be a match for the bears when sober. When he awoke the bears were still ensconced in the tree, and he proceeded to load his gun. He now made the unpleasant discovery that he had only a single bullet, and that beside this his whole ammunition consisted of a fragment of lead and a rusty nail. Nothing daunted he contrived to kill the she bear with the bullet, and the cubs fell to the bit of lead and the rusty nail."—p. 76.

In 1839 Castren visited the western shores of the White Sea, or Russian Karelia, the true land of Finnish song. Here he collected many legends and poems, but was not always successful, and occasionally ran some risks in his pursuit of information. In Sotkumaa the inhabitants of the village fled from his presence, and betook themselves to the woods, in the belief that he was a tax gatherer. One old woman, a famous singer, and renowned for her legendary lore, remained behind, and to her he addressed himself. Her reception of the traveller was not the most amiable.



“Hardly had I said a few words to her, when she raised the broom in her hand in a threatening attitude, evidently intending to drive me bodily out of the house. She soon, however, calmed down, and then repeated to me the following legend. Once there was a youth who had determined to become a famous minstrel of song. For this purpose he placed himself under the most renowned masters of the art ; but all assured him that he never could become a proficient in song. At length the god Manalainen appeared to him, and enquired the cause of his distress. On his making a frank avowal of his hopeless state, Manalainen took him by the hand and led him far away into a desert place, where he suddenly left him. Then broke forth in the youth's breast the full tide of song, unlocked by the influence of solitude and desertion. The old woman immediately applied this legend to my supposed position, telling me not to search for legends and songs in Karelia, but to seek them in my own heart.”—(p. 91.)

Here, for the first time, our traveller fell in with the sect of the Raskolniks, the Covenanters of the Russian Church. These are a band of separatists from the Established Greek faith, and they entertain the fixed conviction that all intercourse with those who are not of their own way of thinking must be religiously avoided. Their head quarters are in Russian Karelia, and particularly in the neighbourhood of the town of Kemi, on the western shores of the White Sea. These people call themselves Starowerzen, while, by the Russian, they are nominated Raskolniks, or, Heterodox ones.

“These Raskolniks are the pietists of Russia. Like the latter, they claim to uphold the ancient, pure, and undefiled faith, spending their time chiefly in prayer and meditation. They believe the Deity to be as far elevated above all earthly concerns, as the heavens are above the earth, and therefore that to please God, man must absolutely turn his back upon the world, and must be prepared to brave all hatred and persecution in order to win a martyr's crown in heaven. The Pietists of Finland hold similar tenets regarding contempt of the world and its goods, but their views are on a more enlarged scale, as they do not entirely repudiate the beautiful in art, or scorn the progress of science. The adherents of the old faith in Russia have no such liberal ideas. From their own limited point of view, they wage a puerile but fierce war against certain conceits, ceremonies, and fashions, upholding others which are neither necessary for the body nor elevating to the mind. Above all, they profess an unbounded horror of all pleasures and amusements. The Pietists of Finland renounce earthly pleasures indeed, but they preach a practical Christianity, while the faith of the Raskolniks is frozen up in certain rites and ceremonies, to the observance of



which they adhere with Jewish pertinacity. Moreover, the Finland Pietists have not separated from the national (Lutheran) Church, while the Raskolniks have entirely broken off all communion with other creeds or sects. It is a common belief in Kemi, that Nikon, the great reformer of religion in Russia, spent three years in a cave in the company of the enemy of mankind, engaged during all that period in falsifying all the religious books of the true faith. Having completed his task, he set forth to convert the Emperor Alexei Michaelovitch. The Czar had been forewarned in a dream that he would be tempted from the faith in his palace by a serpent, and had ordered a strict watch to be kept at the gates, but no one expected the serpent to gain an entrance in the form of the patriarch Nikon. The Raskolniks read with avidity the older religious books and legends of the saints, but still more do they adhere to long prayers before the pictures of the latter. The method of making the sign of the cross is a question of the keenest controversy, between the adherents of the old and of the new doctrines. The latter cross themselves with the three first fingers, the former employ the thumb and the ring and little fingers for the same purpose. The thumb they say betokens God the Father, the ring finger God the Son, and the little finger the Holy Ghost. The Raskolniks strictly avoid eating with those of another creed. If you come in summer to a spring in the neighbourhood of a Raskolnik settlement, you will find that the bark of the birch trees around has been peeled off, and that the ground is covered with the fragments. Each Raskolnik, who drinks at the well, tears off a fresh piece of the bark to convey the water to his lips, as he is not sure but that some heretic has defiled the other pieces on the ground by using them for the same purpose.

“ When I was in Karelia in 1839, I came one afternoon into a small village, Waarakylä, which was inhabited entirely by this sect. Wearied with a long pedestrian journey, I asked for water and something to eat. The people seemed willing to comply with my wishes, but in the whole house there was not a single dish that could be spared for a heretic to feed out of. Therefore they sent messengers to the other houses in the village, but in vain. I then represented my hard case to some old men among the spectators who had gathered around me, and asked them whether it was not a greater sin to allow a fellow creature to die of hunger, than to submit to the defilement of one or more of their wooden vessels. An old grey haired man stepped out before the rest, and leaning on his staff, delivered the following sentiments : ‘ Give him in God’s name something to eat and to drink, so that he may be satisfied, for such is the duty of one man towards another. But you shall not set before him any wooden bowl, for the heathen defilement sinks so deep into the wood that for all eternity it may not be cleansed. Let him, however, have his meals in a stone trough, for this he

cannot defile so deeply but that it may be cleansed again with sand and water.'—(p. 191.)

Wearied out with his long detention at Kemi, our traveller at length took a passage in a small boat for the famous monastery of Solovetskoi, situated on an island in the White Sea, and which to the horror of all orthodox Russians, was attacked by our cruisers during the late Russian war. From Solovetskoi, after considerable delay, he succeeded in reaching Archangel.

Early in July, in the same year, he attempted to reach the Terskoi coast, on the north western shores of the White Sea. His health at this time was greatly broken down, and his sufferings in the miserable vessel in which he had embarked were aggravated by the fierce fanaticism of the Raskolnik captain and his crew. Ill as he was, he had twice a day to go on deck, irrespective of the inclemency of the weather, while the captain and his sailors indulged in long prayers and exhortations in the cabin. Great was their confidence in prayer, and if a fair wind did not come at their call, they simply accounted for it by saying, that other Raskolniks, whose ships were bound in an opposite direction, were praying more powerfully, and that it was impossible for God to satisfy them all! At length, in the middle of a most powerful prayer, a furious storm suddenly arose, the cable snapped, and the ship drove at the mercy of the winds, while the Raskolnik captain, forgetting his sanctimonious character, rushed about the deck in wild despair, and swore louder and longer than any British sailor. Finally, after many days of serious peril, he was put on shore and deserted by this pious crew, and lay for some time delirious from fever in a fisherman's hut on the coast. When able to crawl out of doors, he was suddenly surprised by the appearance of a boat full of soldiers, who had been sent from the nearest Russian post to arrest him as a spy. He cleverly availed himself of this mistake, and suffered himself to be taken before the commandant of the post, and then to the consternation of the poor man, disclosed his real rank, and the high government authority with which he was invested. The soldier hastened to repair his error, by forwarding him with a government escort to Archangel.

Of the personal qualities of the Russian Lapps, our author does not speak in terms of high commendation.

They are indeed Christians in name, but they know nothing of a Christian life, and even seldom enter the Russian chapels, which are to be found in every village. If they do so on Sundays, it is only for a short time; and crossing themselves before the pictures of the saints there, they retire satisfied that they have done all that is required. Under this Christian exterior, they retain the full belief in the powers of magic, and in the influence of their "Schamaven," or magicians. As is the case in most barbarous countries, these men exercise over their victims a species of animal magnetism, not more absurd than that which finds credit among our cultivated nations of Europe and America. They commune with the spirits of the dead, holding long conversations with them, in the presence of the surviving relatives, and they profess that in the state of ecstasy into which they have thrown themselves during their incantations, the soul leaves the body, and wanders over the earth. The magnetic sleep, the "Hypnotism" of Mr. Braid, is well known to these conjurers, and it seems too that the nervous system of the Lapps, and especially of the Lapp females, is peculiarly excitable, quite as much so indeed, as that of hysterical ladies in civilized life.

"During my travels in Lapland," says Castren, "I had been often warned to guard myself against the Russian Lapps, and particularly the Lapp females, as they were liable to attacks of mental aberration, when they lost all control, and knew not what they did. At first I looked on these warnings as the result of the usual fabulous stories about a little known people, and therefore disregarded them altogether. One day, however, in a village in Russian Lappmark, I was in company with some Karelians and two Russian merchants. These people assured me that it was as much as my life was worth to affright one of the Lapland women. In corroboration of this, one of the Karelians assured me that he was once fishing in the sea when he met a boat rowed by Lapps. A Lapp woman, with an infant at her breast, sat among the rowers. When she saw his strange costume and figure, she was so terrified that she cast her own child into the sea. Another Karelian said, that some years ago, he was sitting in a hut with a number of Terskoi Lapps. The conversation ran upon indifferent matters, when suddenly a stroke as of a hammer or of a club, was heard against the wall of the hut. In an instant all the Lapps fell flat on the ground, moved their hands and feet for a few seconds convulsively, and then became stiff and immoveable as corpses. After a few minutes they rose up and continued the conversation

as if nothing had happened. In order to convince me of the truth of these stories of the Karelian peasants, one of the Russian merchants offered to show me a proof of the excitability of the Lapp women. Before doing so, however, he carefully hid every knife, axe, or other sharp instrument which might be at hand. He then walked up to a woman and suddenly clapped his hands before her face. Instantly she sprang upon him like a fury, biting, scratching, and pomelling him to his heart's content. Then she sank exhausted on a bench, and it was long before she recovered. When she came to her senses, she declared that she would not be terrified again, and she kept her word so far that at the next attempt she only uttered a loud piercing shriek. While she was congratulating herself upon this proof of her self-command, one of the merchants flapped his handkerchief in her face, and then immediately ran out of the room. The woman instantly fell into a paroxysm of fury, dashing one man to the ground, others against the walls, and tearing out handfulls of their hair. Meanwhile I sate apart in a corner, awaiting with terror, the moment when she would direct her attention to me. Suddenly, her wild ferocious eyes were fixed on mine, and she was in the act of springing forward to fix her nails in my face, when two stout Karelians seized her and held her fast, and she then sank utterly exhausted into their arms. It was thought that my spectacles excited her especial rage. Soon after a heavy blow was struck outside against the wall, and the same woman jumped up to recommence the scone, when in an instant, one of the bystanders pressed his hands over her eyes, and she was immediately quiet."—p. 153.

Castren made yet another journey into Russian Lapland, visiting the town of Kola, on the Murman coast of the Arctic ocean. On his return from thence, he fell in with the great annual migration that takes place in the early spring, of the people of the interior to the productive waters of the Frozen Sea. Every house on the route from Kemi to Kola, was thronged with these rude Murmans, who are regarded with terror and hatred alike, by Lapps and Finns. In autumn they return again, to lead a solitary life in the forests during the dark season of winter. In Kola, he enjoyed the festivities of the "Butter week" ("Masliniza"), the carnival of the Russians, which precedes the long Lenten fast. Balls and dinner, ice hills and sledging, were then the order of the day, and under a cold of thirty degrees below zero, the Finnish girls spent their short day in the open air, amidst universal festivities.

We had intended to have noticed here the second part

of Castren's lively travels, and to have followed him through the desolate district lying between Archangel and the Oural Mountains, or the frozen Samoiede Tundra. Our limits, however, prevent us doing so just now, and we hope subsequently to consider this interesting description of this wild and little known land, and to compare it with the more laborious and extended, but much heavier work of Professor Schrenck of Kazan upon the same subject.

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ART. II.—1. *Gosselin's Temporal Power of the Popes*, (translated.) London: Dolman, 1853.

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12. *Cardinal Wiseman's Recollections of the Last Four Popes*. London: Hurst and Blackett, publishers, 13, Great Marlborough Street

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17. *A Manual of the Roman Civil Law.* By George Leapingwell, L.L.D. London: Bell and Daldy, 1859.

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LOUIS Napoleon and the "Times" agreed together to malign the Papal Government,—with different objects, the one to destroy the Pope's supremacy, the other to establish his own; the former, the traditional policy of Protestant England, the latter, more or less the aim, until now, of all the powers of Europe, and now the aim of all but one. The Protestantism of England renders it a moral necessity to revile the Papal Government, for if the Pope be antichrist how can his rule be otherwise than accursed? And if the temporal sovereignty rests upon the spiritual, and that is a delusion, what a usurpation it must be! This feeling was, and is, shared by the great European powers; by schismatic Russia, by Lutheran Prussia; and until quite lately, by the Erastian government of Austria, whose ambition and self-will led it to make common cause with the others, as regards the Papacy, at all events to the extent of maligning or undervaluing and decrying the temporal sovereignty of the Pope, which protects the independent exercise of his supremacy, so obnoxious to the spirit of despotism. And that it should be got rid of, and thus the spiritual supremacy be practically destroyed, is of course the devout wish of sound Protestants, who fancy the Pope to be antichrist; or of bad Catholics, who desire his authority to be as weak as possible. Hence in every age, since the temporal dominion was established, the latter class have sought to cripple it, and of course in those who disbelieve in the Papacy they find zealous allies. Therefore it is that in these latter days the Papal Government has been more and more beset and embarrassed by the aggressions or the machinations of foreign powers. Thus it was that the first Napoleon, when he sought to make himself absolute, and to make his mastery over the Church the means of

enslaving the world, began by attacking the temporal dominion of the Papacy. Thus it is that the press of Protestant England, with infallible instinct, is led to incessant revilings and reproaches against the Papal rule. Thus it is that sharp but shallow men, ignorant of all law, English or Roman, are sent to Rome, or probably Turin, to indite bitter things about Roman government. And thus it is that week after week, day after day, the idea is dinned into the British mind that the "Papal Government is the weakest and the worst in Europe." Of course it is. It is essential to the truth of Protestantism; it is necessary to the purposes of despotism, that it should be so. Lord Shaftesbury and Sardinia, Exeter Hall, Turin, and the *Times*, combine to make it out to be so; and of course, to the satisfaction of this country, they succeed in showing it. It is taken now as Gospel truth, as a matter of fact, so simple, patent, and notorious, that to question it would be to display the spirit of a sceptic. The Pope is antichrist, therefore the Papal Government is, must be, the weakest and the worst in Europe. Hence all accusations against it resolve themselves really into this, that it is *Papal*. Thus it is that all the *diatribes* of Turin or of the *Times* come to this—that the government is ecclesiastical, as of course it must be if it is Papal.

The object of the "great powers," Catholic or schismatic, has for ages been to subvert the temporal dominion of the Holy See. Schismatic sovereigns of course desire it, in order to destroy the supremacy; Catholic sovereigns that it may be exercised in subserviency to their will. This object they have all equally (at least till quite recently in the case of Austria alone) been aiming at for many a century. It can be traced as the secret motive and real meaning of all their sinister and subtle interferences, "recommendations," and representations. It can be detected, for example, in the celebrated "Memorandum" of the Five Powers addressed to the Holy See in 1831. Who were "the Five Powers?" Russia, Prussia, and England, France and Austria. Russia, schismatic; Prussia and England, Protestant; France, all but schismatic, with its Gallican concordat, and its governmental systems of education; Austria, still labouring under the old Josephist anti-papal *regime*. These were the "powers" whose disinterested desires to strengthen the temporal dominion of the Holy See prompted them to volunteer



certain recommendations, the plain result of which was, simply the abandonment of that dominion altogether.

For what but that could be the result of these measures, "That the laity should be *generally* admitted to administrative and judicial functions?" Generally, that is, in the *superior* offices; for, as Farini himself informs us, they already were in the inferior. And with lay ministers of state around him what would become of the *Papal* Government? especially as, combined with this demand for lay administration was another of these disinterested counsels, viz., that there should be what is called "constitutional government," i.e., a general system of representative institutions, not only municipal councils elected by the people, but provincial councils, "to assist" the governors of the provinces, and "with suitable powers," "to be consulted on the most important affairs." Added to this, there was to be a Supreme Council of Finance, to be charged with the audit of the public accounts in each branch of the administration, and "having powers proportionate to its great and salutary purposes;" which meant practically the power of sovereignty; or at all events, that would have been the inevitable ultimate result. Such were the disinterested recommendations of the Five Great Powers.

How long after these recommendations had been adopted would Papal government have continued? How long would it have been ere conflicts ensued between the civil and spiritual elements of government? between the lay and the ecclesiastical? And with elective lay councils in every province, "with suitable powers," and with a central council in full possession of the finance, which would have carried the day, the lay or the ecclesiastical? How long would it have been before the Papal Government was subverted?

And which of the Five Great Powers would have mourned the result? Russia with her Greek church? or Prussia with her Lutheran? or England with her Anglican? or France with her Gallican? or Austria with her Erastian? Was there ever a grosser and more ostentatious display of hypocrisy than the concurrence of these five powers in representations to the Papal Government professedly for its *benefit*? Three at least out of the five longing for its destruction, the fourth indifferent, and the fifth, to say the least then, tepid, if not treacherous. For

at that time, at all events, Austria cared far more for her own Italian possessions than for the Pope's temporal dominions, and Farini himself tells us again and again that her emissaries did all they could to set the people secretly against Papal Government, by means of covert taunt, and scoff, and sneer, for the sinister reason he suggests in this remarkable sentence. "Austria wished Europe to understand that the government of the Pope was feeble and in its dotage, and that her troops were indispensable to keep in order the unruly inhabitants of the Legations." "Hence," he adds, "the hostility of intestine factions, and the *suggestions of foreign powers* gave encouragement to excesses, and the illusions of passion and presumption threw a veil over the judgments of men." Thus Farini himself traces the evils that ensued to "the suggestions of foreign powers." The very powers who made insidious "suggestions" to the Papal Government, desiring anything but its welfare. Austria, the most Catholic, had reasons of her own for desiring the Legations to be disturbed. Prussia had a deadly contest with the Holy See at that very time, about the long-vexed question of "mixed marriages." Who doubts the real wishes of Russia or England as regards the Papacy? These powers desired to destroy it, and therefore they urged it to adopt lay administration and popular representation. The plainest proof of their treachery is that they did not *themselves* adopt the measures they recommended. And among these demands we see was the code Napoleon. How conformable that is with the law of the Church we need not say. The code Napoleon harmonizes with the Napoleonic Concordat. Such a state of things could not co-exist at Rome with Papal sovereignty. It scarcely co-exists with Catholicism. The lay ideas and the ecclesiastical coming into antagonism, which must give way? The ecclesiastical, of course, or how could the government be "secularized?" There could not be a secularized administration with a Papal government. For the same reason there could not be "constitutional" government, as it is called, at least in our sense of the term, viz., the responsibility of the ministers, not to the sovereign, but to a popular assembly. It would lead to the same result—lay supremacy. That is, to the subversion of the Papal sovereignty. It is impossible that the Popedom could co-exist with a superior autho-

rity on questions necessarily involving, incidentally, religion and morality, as questions of government often must, for instance, as to marriage or education. Plainly, then, all the "suggestions" of the Great Powers were designed to destroy the Papal sovereignty; but we must not forget that at that period Austria was utterly anti-papal; and the insurrections and commotions of 1849 were perhaps the last of a series of retributions for this bad spirit, the worst legacy of the last century. Add to this, the mission of Lord Minto, the infamous machinations of Sardinia, and the secret conspiracy of Mazzini. "The Roman nobility," says Farini, "were averse to ecclesiastical supremacy," having vanity to be jealous, if it had not ability enough to replace it; "a large portion of the higher classes and the citizens were hostile; the people were rebellious; in the provinces the nobility were so; in the towns the citizens and the poorer classes. The inferior classes were not friendly to the government." Was ever a government under greater difficulties? Was there ever a government with a hundredth part of its difficulties? was there ever a government in the world which had *always* to contend with the sinister and systematic machinations of *all* the European Powers for its destruction, with all the deadly arts of insidious "suggestions," and interested intrigues, and armed occupations, and domestic treason?

The more the complaints or invectives against the Papal government are looked into, the more plainly it will appear that they resolve themselves into this, that it is Papal. And all the demands addressed to it really come to this, that it should commit self-destruction. In a word, they are simply disguised attacks on the Pope's temporal dominion, and therefore on his spiritual supremacy. This is the true meaning of the clamour for the supremacy of laymen in the government; we say supremacy, for, as Farini admits, in numbers they already preponderate, and that what is desired is their admission to the supreme departments; and so to the supreme power in the administration. Over and over again he avows this; (vol. i. p. 207.) and in Spalding's Italy we find a similar avowal, that the clamour of the malcontents would not be satisfied with anything short of the abolition of the Papal government. To the same effect are all the clamours for what is called "constitutional government." Farini declares that the Papal rule is incompatible with it. In our sense

of it it is so, for it involves the supremacy of laymen. This is impossible in a Papal government. For the Pontiff, as the infallible judge of morals, and supreme head of the Church, could never admit in his own dominions any authority above his own, upon matters affecting in any way religion or morality. And in our sense of a "constitutional government," the legislation and the administration must be moulded to the will of the ministers, approved of by a popular assembly. The collisions that might, and must ensue, between the civil and the spiritual elements of government, may be indicated by the mere mention of the law of marriage and the subject of education. Hence Voltaire, with his characteristic keenness, ridiculed the idea of "constitutional government" in the Papal States, and declared that its admission would amount to simple suicide of the Papal rule.

During the great debate last session one of the speakers said :

"When only very popular constituencies exist members become rather delegates than representatives ; men of large property, of refined education, of independent character, decline to enter into political life, and the popular Assembly ceases to represent the highest and noblest elements of the general community. In the curious correspondence between Mirabeau and the Count de la Marck, in which the Count was engaged in obtaining Mirabeau's aid to save the monarchy, Mirabeau said,—'I am afraid it is too late. In destroying an aristocracy of land you have made an aristocracy of money, which of all aristocracies is the most timid; you have made a *democracy of large towns, which of all democracies is the most fickle*. I fear it is too late, and the monarchy is gone.' The monarchy went. What went with it? Did not liberty go? Monarchy in one shape or other was soon restored; monarchy reigns still. Has liberty been restored as well? *What killed liberty? The democracy of large towns, and the terror which democracy itself had of its own excess*. For democracy in France still exists—a democracy of universal suffrage and vote by ballot. These are abstract reasons which, until you put your rules in practice and see the results of your alterations, you cannot fully appreciate. But when all was levelled, as it was in France, you then did see the interests of property forced to give way, and though the time may not be yet, yet the time will come when, if you do away with these distinctions, property will not have the influence which it ought to have in this and in every other country.'"

The British Parliament was engaged in endeavouring to settle this great question, which is destined to pass through

many eventful phases, and the settlement of which was only *staved off* at the period of the first Reform Bill. The *representatives* are found to require control. And the only effectual way of controlling them is declared to be tantamount to revolution. With regard to “representative constitutions,” we exaggerate their importance, and an eminent statesman once said, that it was a mistake to suppose there would be no representation without election. Curiously enough we find a similar idea in an able review on Mr. Mills’s pamphlet on the subject.

“There is a fascination in questions affecting Government and political rights which often leads to an exaggerated estimate of their actual influence on the affairs of human life. Men soon lose sight of the ministerial functions of Government, and come to regard a share in legislative power as an end in itself. Hence all those theories which claim for representation an independent organization, adapted not to the existing state of society, but to some ideal scale of relative importance at variance with that recognized in all other transactions. The representative machinery, if it is to fulfil its purpose, must work in subordination to the habits and associations which operate not only at contested elections, but in the daily intercourse of the market-place and the family, and which lie deeper than any positive institutions.....It is true that to produce an efficient body of senators is not the only object of representation, and it is *possible that nomination by Her Majesty in Council would be equally conducive to this single end* with the more constitutional method of election.”—*Times*.

Political institutions must be adapted to the habits of a people. In the self-same journal we find an article commencing thus;—

“It is with laws as with constitutions,—they *must follow the custom of the country*. France will not bear a free Parliament, nor can we bear an Empire. France has not the materials for a powerful Peerage, nor have we so much of that public life which constitutes the last resort of freedom in France. We have order and subordination; across the Channel they have an equality, which to British feeling is rather a confusion than a just relation of classes. We have traditions and usages; they have ideas and decrees. No two nations so near are so different; and, though it is proved that we possess many common elements of race, time has merged them into two wholly distinct national characters. It matters not how or where we got our patriarchal traditions, but they are deep in the blood, and centuries could not wear them out. *Such is our custom, and our laws follow it perforce*. There is no custom without its evil as well as its good; but it is custom all the same, and is not the less powerful for evil or for good.”

Thus the same writer observes :

“ In the city governments of the Greek and Italian Republics, where all the citizens were trained to politics, and party feuds were heightened by the animosity of families and of neighbours, internal peace could only be secured by what we should call ‘ class legislation.’ Birth and wealth, in such a state of things, might be, and sometimes were, visited with all the disabilities of which our proletariat have ever complained. The necessity for recognizing this permanent antagonism does not arise in a society so vast and varied as our own.”

So Ranke shows, as we have seen, that as a matter of fact, the Italians have never had representative political institutions in our sense of the term, and that they are unsuited to Italy.

As to political assemblies, our statesmen cannot agree as to the limit or amount of qualification. And wherever it is fixed, the time must come when, to use Mr. Drummond’s phrase, those excluded will “ make a rush ” to pass the line. And all statesmen agree that when once there is no limit, our present constitution is gone. Well, then, this being the position of British statesmen on the question, and such the practical conclusion they are apprehensive of reaching, may not the Pope, as an Italian sovereign, be guided to the same conclusion, and then, reasoning as by his own actual experience, decline to embark again on a political experiment which they fear, and he has found, may prove of so perilous a character? And if in this sober-minded, sensible, practical country it is so hazardous to draw a line, and so perilous to pass it, what must be the risk and the peril in a country like Italy? so proud, so excitable, so easily led away by faction; full of secret societies, prone to furious attacks. At all events, may not English statesmen be called upon to settle the great problem of political representation before they call upon the Pope to do so, and teach his subjects to denounce him as an oppressor if he declines? Farini himself says, “ We Italians are too susceptible of the impulses of passion and of heat in the imagination. With a small matter we are intoxicated.”—(Vol. ii. p. 83.) And elsewhere he describes the people of the Roman States as “ rude,” “ grossly ignorant,” and “ quarrelsome ; ” as characterized by “ the arrogance of a materializing philosophy, and municipal oratory ; ” too familiar with the insane barbarities of the French Revolution, and the



“traditional spirit of sectarianism rekindled,” (It will be observed that the causes ascribed are just those which we have pointed to.) Well, if this be a true description of them, and to some extent it may be, as we have seen, (from the causes we have pointed out,) are such people fit for self-government? Might not the Pope quote the emphatic words of the most advanced Liberal in the House of Commons, arguing against a Reform bill: “Change, is of itself an evil. Change in legislation is only justifiable when the change is clearly to a better state of things.”

And might he not appeal to the high authorities we have cited, showing the hopeless diversity and discordance of the views and principles entertained by our politicians upon the subject? Might he not quote the words of Mr. Herbert describing that discordance, “There is the utmost difference of opinion upon every subject on both sides of the House,” and ask, whether, if this mighty and insulated empire can scarcely stand the shock of such convulsions of political opinion, the inflammable materials of Italian communities could go through the ordeal?

In 1848 Pius IX., after having erected a court of state, established a representative constitution, and thus explained the principles on which he did so :

“In the institutions which we have hitherto conferred upon our subjects, it was our intention to revive certain ancient provisions, which, after having long reflected like a mirror the wisdom of our predecessors, came at length in the course of time, to demand adaptation to the change of circumstances”.....“We had arrived at the establishment of a consultative representation of all the provinces, such as might aid our government in the task of legislation and in the administration of public affairs. Since however our neighbour sovereigns have judged their subjects to be ripe for receiving the benefit of a representation, not merely legislative, but deliberative, we will not form a lower estimate of our people. In ancient times our communes had the privilege of governing themselves respectively, under laws made by themselves, subject to the assent of the sovereign. The conditions of modern civilization do not admit of the renewal in the same form of a system under which differences of laws and customs often broke the due relation of one council with another. But we intend to entrust the power to two councils, one of them sitting by our nomination, the other by deputation from every part of the state.”

And we have the testimony of Lord Palmerston, quoted by Farini, that



“The present Pope had begun to enter upon a system of administrative improvement, and that his proceedings were in general principles *highly praiseworthy*.”

And on the other hand Farini himself recognizes those wise views which the Pope propounded, and to which it is necessary to pay attention in order to avoid the error of supposing that it is any evidence of fallibility or failure of judgment, that one Pontiff should adopt a political course different from that pursued by another; nor even that the same Pontiff should take different measures at different periods, and under different circumstances.

“Because political science is practically governed according to particular facts and opportunities, rather than by general and absolute propositions; whatever may be urged to the contrary by those who condemn and revile the study of the possible and reasonable in regard both to means and ends.”

Doubtless it is material to have fixed principles, but it is not the less material “in the choice of means to be governed by occasion; otherwise the risk is run of losing all, from not submitting to what is inevitable. Politics being the most complex and difficult of the sciences, require greater prudence. While supremely governed by the eternal principles of justice and reason, this science is governed subordinately by events and hazards near at hand.”

So thought the Pope when he established the Constitution. So thought he when he revoked it, having found by experience that it was abused. Does not God Himself withdraw privileges that are abused?

As Pius IX. told the world in his Allocution of 1848.

“We had scarcely ascended the Pontifical throne, before we turned our thoughts and cares to ameliorate to the utmost of our power, the condition of the people of the Roman States.”

That is, by measures practical, not political. By what are called in this country, “administrative” measures, in matters wherein, through external or accidental causes, scope for such measures may have arisen. And it is to be borne in mind, on this subject, on the one hand, that it was our English poet who wrote:

“Of all the ills which human kind endure,  
How small the part which human laws can cure.”

And on the other hand, that it is not the existence of ills, but their existence through default on the part of a government, or by reason of some vice in its system, that

can fairly be said to throw any blame upon a government. Therefore the Pontiff used those well-chosen words, "We turned our thoughts and cares to ameliorate to the utmost of our power, the condition of the people." Alas, he had to add,

"But through the interference of hostile and turbulent men, it came to pass that our designs were rendered futile."

The Pontiff explained how and why.

"As soon as we judged it opportune, in order still more to secure the prosperity of the public administration, to establish the Consulta of State, they gave out that 'the whole Pontifical government was changed, and that our authority was subject to the decisions of the Consulta.'"

In short, they designed, as his Holiness elsewhere said, to destroy his temporal power altogether. Mazzini in his manifesto, a short time after the Allocution, openly avowed "a firm determination to see the end of the temporal dominion of the Pope." And Farini, in effect, adopts and avows this view, in making it his chief complaint of the Papal government, that the higher offices are consigned to ecclesiastics. Now this is the whole truth of the case. That the agitation against the Papal government is an agitation directed against it simply as such; not on account of its alleged abuses, which are mere vain pretences, but because it is Papal.

The French General's manifesto quite confirms this view, and shows that the Roman people were not averse to the Papal government.

"Hardly was he raised to the Pontifical throne, ere Pius IX. acquired the affections of his people by liberal reform. But a factious party which had brought misfortune on Italy, armed itself at Rome under the pretence of liberty. The Sovereign Pontiff was obliged to retire into exile on account of a rebellion inaugurated by the vaunted assassination of his minister. The citizens of Rome consider us liberators. We have to fight with the *proscribed of all nations*, who oppress this country, after having ruined the cause of liberty in their own."

Thus French testimony supports our argument, that it was not the real feelings of the Roman people, but Sardinian intrigues which stimulated the rebellion against the Pope; and that it is a desire to subvert the Papal dominion, which produces the outcry against its alleged misgovernment.

It is a singular thing, that the work of Farini designed to uphold the necessity of "constitutional government," as it is called, for Italy, furnishes the most irrefragable proofs of the contrary. He admits that the "Consulta, the Council of State, first established by the Pope, when instituted, was regarded as a great boon," and that

"The care that the Sovereign took, to choose for it the men most esteemed and loved, without regard to political opinions, had given to it the strength of public approbation."

He adds, with remarkable obliviousness of history, that "It implied the *novelties* of the introduction of the control, and participation of the laity, in the administration of public affairs."

These were no novelties, as we have shown from the authority of Ranke. Thus were the ancient usages of the Ecclesiastical State interrupted by the convulsions of the French Revolution. And on the nomination to this very Council of State, the Pope appointed *all laymen* save three.

Well so much for a constitution based on Papal nomination. Farini admits that the practical result was good.

But how of the new constitution, conceded by the Pontiff, on the principles he explains, no doubt against his own judgment, but in consequence of the circumstances of the times, and based on popular election? Farini admits that the practical result was evil. As to the conduct of the Papal government since its last restoration, the charges are frivolous to the lowest degree. They really resolve themselves into this, that the Pope did not restore to office those who had conspired to depose him, nor restore that system of political representation which it has now been proved was desired only in order to subvert his sovereignty. The Roman Pontiffs, ever since they received that sovereignty, have declared it to be essential to the due exercise of their supremacy, and the most enlightened statesmen of every country, including our own, have affirmed that view. Every government must uphold its authority; and no charges are made against the Papal government of punishment for political offences more severe than are inflicted by our own.

Mr. Maguire, in a lecture at Liverpool on St. Patrick's Day, refuted the statements put forth respecting the condition of the Italians under the Papal government, assert-

ing that there are only seventy-two political prisoners in Rome at present, which, the honourable gentleman remarked, is not more than there are in Ireland.

Such is the inconsistency of events, that while at one time the Papal government is scoffed at for its weakness, at another it is reviled for severity. The truth is, that it maintains its legitimate authority with a greater mixture of firmness and mildness, than any other government. Its more severe punishments for political offences, are imprisonment, and penal servitude; and if we wish to find instances of flagellations and hanging, we must go to the British dominions and search in Ireland, Ionia, or Ceylon.

The English government is at this very time preparing to coerce the Ionians, whom Sir Henry Ward's floggings have made bitterly hostile to our rule. And at the same time the government is eagerly engaged in persecuting with ridiculous rigour, a few foolish youths, whose aversion to our rule has led to yearnings towards independence. Yet it is made a charge against the Papal government that it imprisons those who conspire to subvert it! Farini himself states that death was inflicted by that government only on crimes of assassination. And he also states that the Republican government established military commissions, empowered to give sentences without appeal, and to be executed within twenty-four hours, against all seditious attempts, even though not consummated, and tending in any manner to subvert public order as actually established! And Lord Palmerston publicly stated that the Roman States had never been so well governed! Is not the absurdity and hypocrisy of the outcry against the Papal government, on that score, most flagrant?

There is a short and simple mode indeed, of testing the value and sincerity of those outcries against Papal government. And it is this. Let us see what was the kind of government established at the Revolution and approved of in the face of the British parliament, and of all Europe, by the British Prime Minister, Lord Palmerston. Farini shall describe it. (Book v. c. 1-2.)

“Passion too strong for prudence, and clamour for argument; the conditions of the finances most dismal; old disorders capped with new; growing expenses, dwindling receipts; no public confidence; empty coffers, and clamorous wants.” “There were but two alternatives, more paper money, or a compulsory loan. And

now grudges, cupidity, and resentments, *the most base and most ferocious* grew up. Some went straight enough to work; they would murder the priests and the rich. This was the liberalism of *savages*. It was always the same itch for confiscation—the same mania for barbarity. The holders of office were shifted—the roots of the evil remained, Ceceruacchio, and the blackguard Bezzi, the right arm of the Republican police. The city infested with ruffians, ‘*savage gangs of political assassins* filled the houses of Imola, Sinigaglia, and Ancona, with tears and blood.’”

Such was the government lauded by the chief revilers of Papal rule; the *Times*, and Lord Palmerston.

And then after stating all this, Farini, when at the close of his work he sums up his charges against the Papal Government, actually makes it responsible for the disorders caused by his own friends the Revolutionists! He speaks of “examples made of the assassins who infested the city during the Revolution.” He complains, “punishments were frequent, but rapine did not diminish:” rapine, of which his friends had set the example. Is the foul spirit of rapine destroyed all at once? And can it be suppressed without punishments? “The public debt increases: paper money remains in circulation:” as if the Papal Government could help that: as if his friends had not, as he himself shows, laid the basis of financial embarrassments, which could not but last for years, in their forced loans and fraudulent issues of paper. The Papal Government had, for the sake of public credit, to bear the burdens left behind them, by those brigands “the Republican rulers.” “More than once the Government has suddenly doubled the property tax.” As if Farini’s friend, Mr. Gladstone, had not done the same thing. Now are not such charges at once frivolous and ridiculous? Yet here is the staple of all the accusations of which the changes are rung, in Parliament and the press whenever it is desired to make professions of “sympathy for Italy.”

Farini actually makes it a complaint that there are thousands of foreigners in Rome, as if the Pope could help that.

Here, indeed, in a great degree, is the root of the evil. The truth is, as Lord John Russell fairly admitted in his speech on the subject the session before last, the Roman Government has to encounter difficulties incident to no other, and arising from this: that it is, from its being the

seat of the Head of the Church, necessarily the central and the chief object of all political intrigues for supremacy, and these intrigues, and from whatever quarter they may ramify, always embrace more or less the Roman population. Hence it becomes the object of continental states to establish and augment their influence there—and they are not likely to be scrupulous, when, as in the cases of France and Sardinia, their objects are not merely influence but conquest and territorial aggrandisement. One can hardly imagine a more difficult task than the government of the Papal States under such circumstances—exposed to incessant intrigues—to conspiracies fomented by foreign states, and to menaces of foreign aggression.

The controversy with the Pope had nothing to do with good or ill government. It was a question of sovereignty. The Revolutionists desired to depose him, and to do so by having a council of their own to which he was to be subordinate. When the Pope returned he established a council of state “to give its *opinion* on all projects of law prior to their being submitted to the sanction of the sovereign: and to examine all important questions connected with every branch of public administration, on which its opinion would be requested by the Pontiff or his ministers.”

That is, the council would *be* a council: to offer counsel to their sovereign, not to coerce him. This is the very theory of government, which Guizot describes somewhere as the most consistent with reason; the sovereign bound to *consult*, the councillors bound to *obey*; he having the advantage of their advice and opinion, the community having the advantage of *unity of authority*. Then there was established

“A Council of Finance, to be occupied with the estimates and examine the expenditure: to audit the accounts of the several departments; to give its opinion on the imposition of new taxes; or on the diminution of those already existing, as to the best mode of effecting their distribution; on the most effective mode of extending trade, and generally on all that relates to the interests of the Treasury.”

Here again there is ample opportunity for counsel, but there is unity of authority, that principle of efficiency for which Ranke commends the Papal Government. It is a



singular thing that in this country there is, as economical reformers truly contend, no effectual control over the estimates; for they are prepared and printed by the heads of different departments without any conference with a representative body of any kind, and even without general concert; and when they are prepared, the representatives have no means of determining on their propriety; so that it is the rarest thing to find a vote resisted successfully, and yet there is a growing conviction that there is an immensity of jobbing and profligacy in the expenditure of public money. To proceed however with the present constitution of the Government of the Papal States, provincial councils are established, like our municipal councils,

“To be occupied with the local interests of the provinces, the expenses to be incurred on its account, and with its concurrence; the revenue and expenditure of internal administration; the municipal representations to be regulated by the most *ample franchises*, which are compatible with the local interests. The electors of councillors to have for their basis an exclusive number of electors. The head of the magistracy to be elected by the Sovereign, and the aldermen by the residents of provinces out of lists chosen by the council.”

Now here we find the Pope giving to his subjects local elective financial councils, which, to this moment, the British people do not possess! For the County rates are raised and expended by the magistrates appointed by the Crown; and the Legislature have repeatedly refused to establish elective financial boards for the counties; an obvious inconsistency, seeing that in the cities and boroughs, the town councils elected by the people regulate the financial affairs of the town. Speaking generally, therefore, of the people of the Roman States, they have a greater power over their local taxation than the people of this country.

Then provision is made for reforms and improvements in the judicial departments, and legislation, civil, criminal, and administrative, by means of a commission nominated by the Sovereign; just as in this country, witness the Common Law Commission, the Charity Commission, &c. Now, no doubt this constitution will not satisfy any who desire to abolish the Papal Sovereignty; but we ask any who do not, whether it does not substantially fulfil or provide for all the purposes and objects for good government?



We repeat, all the charges of Farini or Massimo d'Azeglio when looked into, are charges, which, but for their ignorance of our English laws and institutions, they would see might be brought with a thousand fold more force against the state of things in this country, or they resolve themselves into a dislike of the Papal government as such.

On this subject the following observations of the *Univers* are significant:

“It is impossible for the Pope to cease being an independent Prince, as free in his own dominions as any other Sovereign. Any attempt to alter this would fail. If the Pope must quit Rome momentarily, it is certain that he will return and re-establish himself in the conditions of independence which are necessary for the interests of the Catholic world. A thousand years' experience and examples sufficiently recent, ought to enlighten statesmen on this point, and lead them to understand the confidence of men actuated by faith.”

The *Sardinian* intriguers, and the handful of Roman exiles they use for instruments, understand it well enough, but care nothing about it. What they want, is the subversion of the Papal government. All “the rest is leather and prunella.” The charges they urge are mere pretences, and are not supported by Roman testimony. Whatever irritation may have arisen in the Roman States, has arisen from Austrian or French occupation. Farini shows this himself, as much so when speaking of 1845, as of 1815; and he shows also that these permanent occupations were against the will of the Papal government, and protested against as much by Cardinal Antonelli, as by Cardinal Consalvi. Nay, he accuses the present Pope, when Cardinal Feretti, of taking a similar course.

At the Congress of Paris, in 1856, the Emperor, with designs now evident, and with the concurrence of Sardinia, made suggestions as to the Roman States quite in the same spirit as that of the celebrated letter of the Prince President in 1848. And, of course, these suggestions met with a ready concurrence from the representatives of England and Sardinia. The latter power indeed, had evidently been invited by France to enter into the war, with the object of being ultimately invited thus to enter into the Conference, and neutralize the voice and vote of Austria, as to the affairs of Italy, and especially of Rome. More recently, we find that the French

government proposed that political representative assemblies should be convened in the Roman States to decide on all the laws, and vote the budget. In other words, to control the government. This, in effect, would be "secularization" of the government, that is, its subjugation to the laity; in a word, the deposition of the Pope, and the destruction of the Papacy, as a temporal power. For that reason, it had been recommended by the "great powers" in 1831. For that reason it had led to those results, in 1848; and for the very same reason it is recommended now, namely, that it might lead again to those much desired results, as necessarily it must have done; for the supreme moral authority of the Pope could not co-exist with a supreme legislative authority of laymen. The proposal, therefore, like all proposals of the "great powers," was in bad faith, and that it was so on the part of the Emperor, is shown by this, that he had no representative assemblies, or at least took care that they should have no real political power. In his nation, they are but tools and puppets of despotism. The Pope, more honest, refused to set up shams, which might prove delusions, pregnant, as before, with disaster and revolution.

The secret emissaries of Sardinia and France, continued their assaults upon the Papal government through the press of Paris and of London; and when things seemed ripe for the prosecution of their fell designs, there appeared the pamphlet of the Emperor, "Napoleon III. and Italy."

In this, the most insidious use was made of the Pope's concession of a political representative assembly in 1848. It was artfully described as the result of his own free judgment, instead of a reluctant concession to the evils of the times, for the sake of disabusing Italy, by sad experience, of a fatal delusion.

"Unhappily, the revolution came on, which drew the population along, and caused princes to draw back, leaving him no refuge but exile, and no safety but the sword of France.

"It is not the fault of Pius IX. if the temporal authority which he desired to reform was again found in his hands such as he had received it from his predecessor. Convinced of the necessity of that reform, he has had, doubtless, the regret of having failed in it; but he never will have remorse before God for having attempted it. This day he bears with Christian resignation the weight of a situa-

tion which he has vainly tried to improve, and the abuses of which his perfect goodness would have corrected if they could be so.

“This situation places the Pope in presence of three real difficulties, and which, we declare, expose seriously to danger, according to us, the political power of the Papacy—a power necessary for its independence, and the grandeur of its religious mission.

“The first of these difficulties is found in the administrative government of the Roman States, which is but the Catholic authority applied to the interests of a temporal order. The laws of the Church are not proper for discussion, and merit respect; they must be considered as an emanation of the Divine wisdom; but civil society claims its legislation as religious society exacts and preserves its own. The Canon Law, inflexible as a dogma, immovable amid the movement of ages, is essentially distinct from legal law, variable as are the requirements and the interests of society. It could adapt itself to the early periods of Christian civilization when Charlemagne introduced in his Capitularies the rules and precepts of theocracy; but the Canon Law cannot suffice for the protection and development of modern society.

“There is, nevertheless, an essential point which must never be lost sight of when the Pontifical Government is in question, namely, the necessity of respecting its twofold character, and of reconciling the *regime* of the Church and the *regime* of the Roman nation, which are exercised by the same hand. They must be reconciled without being confounded. There is the problem—a difficult one, we admit, but on the solution of which depends, perhaps, the salvation of the temporal power of the Papacy.

“In fact, real abuses, independent of men, inherent in the nature of things, spring from this confusion. These abuses excite among the Roman population a spirit which would easily render them unjust and distrustful, and which is only kept in check by the presence of our soldiers. We become responsible for what we protect; and our very occupation, from the fact of being prolonged on such conditions, would be worn out, and would endanger the name and the influence of France.

“Thus, in a political point of view, the absolutely clerical character of the Government of the Roman States is a *contre-sens*, an active cause of discontent, and, consequently, an element of weakness for the Pope himself, and a permanent danger of revolution.”

Here we see the same object aimed at as by Napoleon in 1791, by the Great Powers in 1831, and by Louis Napoleon in 1848. The more carefully it is looked at, the more clearly it will be seen that it resolves itself into the destruction of the Papal Government.

“The second difficulty for the Pope is that which results from the national question. In this point of view his situation is not

more defined nor less dangerous. The irritation in the Roman States is *still less owing to the absence of legal guarantees and to the clerical administration than to the antagonism necessarily established between the mission of the Head of the Church and that of the Pope as an Italian Prince.*"

That is, the Papacy is incompatible with temporal rule. That is the idea expressed, and then expounded.

"The Pope supported, as Sovereign, the cause of independence ; as Head of the Church he disapproved the war, and refused to break off with Austria. Placed between a double duty, he was reduced to sacrifice the one to the other. He necessarily sacrificed the political to the spiritual duty. This is the condemnation, not of Pius IX, but of the system—not of the man, but of the situation, since the situation imposes on the man the terrible alternative of immolating the Prince to the Pontiff, or the Pontiff to the Prince.

"Finally, a third difficulty, and this not the least serious, is created for the Pope by the absolute impossibility he is in of forming, in actual circumstances, an Italian army. All the attempts made with this object have failed.

"Thus, in a word, in what concerns Rome there are three considerable difficulties, which correspond to the urgent necessities, viz. :—

"1. To reconcile the *regime* of the Church with a legal, political, and regular *regime* in the Roman States.

"2. To render the Pope independent of questions of nationality, of war, of armaments, of internal and external defence.

"3. To constitute a native army, and to substitute for our occupation the protection of an efficacious and real Italian force.

"This is a threefold necessity, which, under pain of certain and perhaps approaching disturbance, must be satisfied, in the interest of Italy, of religion, and of all the Catholic States. ('Triple exigence, a laquelle, sous peine de perturbation certaine et peut-etre prochaine, il importe de satisfaire, dans l'interet de l'Italie, de la religion, et de tous les Etats Catholiques.' ")

The Imperial writer did not profess to see any solution for this difficulty, save that of secularization, i. e., abolition of the temporal government of the Pope. The Emperor's pamphlet thus summed up the principles in his plan :—

"Secularization of the administrative power by the formation of a Council of State, consisting of laymen, and charged to examine and discuss the laws.

"Representation of all the interests of the country in a *Consultum* elected directly by the provincial councils, or at least selected by the Pope from a list of candidates presented by those councils,

and called upon to deliberate on all the laws, and to vote the Budget ;

“ An efficacious control over local expenses by provincial councils, receiving their mission from the municipal councils, which themselves are nominated by electors, conformable to the edict of the 24th of November, 1850 ;

“ Judicial reform, by the promulgation of a code of laws on the plan of the ‘ Code Napoleon,’ or the ‘ Code Lombardo-Venetian,’ or that of Naples ;

“ A regular levying of taxes, according to the system adopted in France ;

“ Finally, reconciliation of all classes and all opinions by the enlightened and paternal exercise of clemency towards all those willing to make respectful submission to the Sovereign Pontiff.

“ Such were the bases of the project sent from Paris to Vienna, in the month of June, 1857.”

They were now disguised by a delusive suggestion as to setting up an Italian confederation, with the Pope at the head of it. It is not worth while to advert to it, except in passing, as a proof of bad faith.

The bad faith of the whole proposition, indeed, was so flagrant, that it was exposed and scouted even in France. The able Paris correspondent of the *Register* truly wrote thus :

“ I know of no better way of showing up the flimsiness of that part of the late pamphlet which proposes to place the Pope at the head of an Italian confederacy, whilst depriving him of his temporal power, than by quoting a passage from a *brochure* published last week by Emile de Girardin, in answer to the Imperial manifesto.

“ But what sort of Confederation ? Is it to be a republican Confederation, as in Switzerland, or a Monarchical Confederation, as in Germany ? Granted that in a political view the character, exclusively clerical, of the Roman Government is a sin against common sense, an active cause of discontent, into whose hands are the Government and Administration of the Roman States to pass ? You say nothing about it. If the Pope were to accept—a very doubtful hypothesis, if we judge from the past—if the Pope were to accept the presidency of the Italian Confederation, what will be the nature of that presidency ? Is it to be purely honorific, or really political ? If purely nominal, how will you make him accept it in exchange for his temporal sovereignty ? What motives have we to hope that we shall be more fortunate in such an attempt than we have been for the last ten years in our repeated demands for those guarantees which, after being the subject-matter of a celebrated letter written in August, 1849, were afterwards embodied in the draft of a treaty sent from Paris to Vienna in 1857 ? Should the Pope refuse to

accept the nominal presidency of the Italian Confederation, what shall we do—to whom are we to offer it—what is to become of the Pope, and where is he to retire to? Has this question been put? Not one word about it. But if the presidency is not merely nominal, how are we to bring about, in the same hands, the separation betwixt spiritual and temporal power which appeared so difficult even to Napoleon the First? Where is temporal power to begin? Where is the spiritual to end? Not one word upon the subject. What guarantee do we offer that, with a Pope president of the Confederation, ‘he will be something else than Catholic authority applied to the temporal order?’ Again, not one word upon the subject. How is the pontifical power to be combined without confusion with the temporal power? Still no answer. Under what circumstances is the Pope to act—as a pontiff or as a president? No answer. By what means is the papal infallibility to be conciliated with political responsibility? No answer. Will it be through the parliamentary system? But 1830 and 1848 have proved already how truly empty is the fiction of an inviolate Royalty guarded by Ministerial responsibility.

“Thus one thing becomes evident—the establishment of a Confederation under the presidency of the Pope neither cuts nor unlooses the knot of the two powers placed in the same hands; it leaves the question just as it was; far from simplifying, it would rather complicate the problem. So that, after all, we offer to the Pope far more an aggravation than a solution.”

Of this there could be no question. And the Imperial publication was dealt with as delusive, as merely intended to throw dust in men’s eyes and disguise the real ideas and aims, which time alone could develop.

The pretences of the Imperial pamphleteer were fully refuted by some able articles in the *Register* and *Civiltà Cattolica*, of which the former were in one view more valuable because written evidently with an English *animus* sufficiently strong. The writer owned this. He sought

“To furnish some account of the true state of the Government, and of the real condition of the people of the States of the Church. Doubtless this seems a hopeless task, for where men have made up their minds to see nothing but evil, it is almost useless to show that there is any good. Over and over again have the same charges been made against the temporal administration of Pius IX. since 1850; and over and over again have these charges been answered. What more complete, for example, than the answer of M. de Rayneval in the report which he made to the French Government in 1856, in which he said, ‘When certain persons say to the Pontifical Government, Form an administration which may have for its aim the good of the people, the Government might reply, Look at



our acts, and condemn us if you dare! The Government might ask, not only which of its acts is subject for legitimate blame, but in which of its duties it has failed. And yet three years have hardly passed by, and we have the same charges which M. de Rayneval answered, renewed with the apparent approval of the present occupant of the throne of France. Indeed, it would almost seem as if the simple truth of M. de Rayneval's report had been merely set aside, as not in harmony with the intricate policy of the Emperor."

The writer, however, hit the truth, when he said:

"I do not forget that I am writing for English readers, and I do not wish to maintain that the Pontifical Government is a model—I do not mean to say that it is perfect. In common with all Governments, it has many imperfections, and doubtless it has weaknesses of its own, arising in some respects from the *character both of the governor and the governed*. Romans are not Englishmen, nor do they cease to be Romans when they are admitted into power. As the people are, so in great measure will the Government be; it would be useless to look for the peculiar advantages of English rule among a people peculiarly un-English."

We shall endeavour elsewhere to show how far those advantages are estimated.

And then he went on:—

"Nor must we forget (as Count Buol in his recent note has so justly said) that the difficulties which the Pontifical Government has to meet with in the accomplishment of its task, 'arise less from internal causes than from revolutionary elements, influences, and excitements from abroad.' The present state of Piedmont, and its revolutionary policy for some time past would make a stronger government than that of Rome pause before granting full measures of Reform.

"The question to be asked is this,—Has the Pontifical Government, since the return of the Holy Father from Gaeta, fairly given itself to the task of ameliorating the condition of the people? To restore confidence to a people distracted by revolution, to harmonize discordant elements, to make concessions calculated to satisfy the population, to encourage the material improvement of the country, to provide for the due administration of justice, to organize an army capable of maintaining public tranquillity without the aid of foreign troops, to secure true liberty without permitting license—all this is no easy task to perform after a Revolution, such as that of '48; and yet, I believe that upon investigation, it will be found that the Pontifical Government has not failed, and that, if its efforts have not been crowned with perfect success, this is to be attributed, not to the want of will on the part of the Government, but to the difficulties of the times. Let the tree be judged by its fruits."

The writer then went on



“To show what really has been done by the Pontifical Government since 1850; it will then be seen whether the subjects of the Holy Father stand in any very great need of the reforms which other states are so anxious to confer upon them.”

He begun

“With the complete reform of the municipal organization which was effected by the law of the 24th November, 1850, a reform which lies at the root of the other changes which have been brought about in the state; and one which cannot fail to be acceptable to the admirers of constitutional government; who, with Singor Savagnoli who has just published a pamphlet on the Independence of Italy, will probably see in municipal institutions the ‘means of maintaining the habit of self-government.’

“Every commune has an electoral college, a communal council, and a body of magistrates, headed by a president. The electoral college is composed of the chief proprietors, shopkeepers, and those who follow the liberal professions, preference being given to the most highly taxed. The communal, or municipal council, is chosen by the electoral college; its members discuss the interests of the municipality, and give their votes in secret. The body of magistrates is formed from the councillors, and is chosen by the Delegate of the Province from the lists presented by the Council. The head, or President of the Magistracy, is chosen by the Holy Father out of a list of three.

“From this sketch it will be seen that the electoral colleges have the direct nomination of the municipal councillors, who in their turn, present a list of candidates, from which the Holy Father selects the members of the provincial council. This council meets once a year to provide for the internal administration of the province, the execution of which is confided to the commission elected by the council, which remains *en permanence* during the interval between one session and another. Thus it appears that the funds of the commune and the province are not administered by the representatives of the Government, but by this executive commission, a mere power of supervision being secured to the delegate or prefect.”

That is, as we have said before, the people of the Roman States have not only in boroughs but in country districts, local elective councils to manage their local taxation, while the English people have not such councils (except in corporate towns), and the British parliament has repeatedly refused to grant them the privilege. A bill to establish elective financial boards for counties has been more than once proposed and rejected. Thus, therefore, in the country districts, the inhabitants of Romagna have

powers of self-government, which the English people have not.

But to resume our quotation from the *Register* :

“ These changes could not of course be unknown to the author of ‘ Napoleon III. et l’Italie ;’ indeed he referred to the edict of the 24th November, 1850, by which they were brought about ; but in his solicitude for the well-being of the subjects of the Holy Father, he seems to labour under considerable fear that this edict has been nothing more than a dead letter. For among the projects of reform for the Papal States mentioned by him as having been sent by the Cabinet of the Tuilleries to that of Vienna in June ’57—projects which (he informs us) were so entirely modified by the Austrian Government that the propositions of France had almost disappeared—we find it proposed that the local expenses should be *effectually controlled* by provincial councils delegated by the municipal councils, which in their turn are named by the electors in conformity with the edict of November 24, 1850. The author of that now celebrated *brochure* may re-assure himself. Of the modification made by Austria to the projects of reform proposed by France I am ignorant ; but I can testify to the fact that with the two exceptions mentioned in my last letter, the municipal and provincial reform has been fully and honestly carried out. Of one thing, however, I am not so certain. I am not quite sure that the control exercised over local expenses by local councils has been found in practice very *efficacious*. It is not at all clear that those who have to pay, are quite satisfied that they have not sometimes to pay for unnecessary objects. Indeed it would seem to be a growing feeling among the people that a little control on the part of the Government would be preferable to that of the local councils ; at least the *Civiltà Cattolica*, in its number for the 5th of March, assures us of this fact, and I know myself, from high authority, that very many petitions have been addressed to the Holy Father, praying him to diminish the excessive liberty granted to the municipal authorities, who sometimes, especially in the smaller communes, abuse their powers to the manifest injury of the population.”

Precisely as in this country we suffer continually from the extravagant expenditure (or the misjudged parsimony) of our “ representatives” in parish vestries or in town councils. To suppose that an elective assembly is necessarily wise, or that popular election is any *panacea* against corruption, is a great mistake. The Roman people, it is curious to observe, are beginning to find it out : and we found it out long ago, and in England, experience of the abuses of local self-government generated that very desire for central control, which the Romans feel themselves driven to. This was the cause of the new Poor

Law with its central Board. Then there was a reaction ; and our latest experiment, the Metropolitan Board of Works, is *elective* and central. Yet it is hardly established ere we hear complaints of mismanagement and corruption. Either we are a people given to murmuring, or to jobbery. For, frame our local councils as we may, they are assailed with these complaints. Anyhow, it is plain that “self-government” is no *panacea*. We have tried it in every form—local and central, elective and non-elective : always without content. Had we not better make our own institutions work well before we deride those of other nations ? And how many of those who read the *Times* are aware that the Roman people *have* local elective councils, whatever they are worth, to a greater extent than *we* have ?

“ So really stands the case ; but if we are to listen—I will not say to strangers travelling hurriedly through the Papal States—but even to modern statesmen, we shall hear of a population groaning under an ecclesiastical despotism, and praying for the liberty enjoyed by other states, we shall hear of a selfish, priestly government eating up the money of the people, the very type of mal-administration, the canker of evil in the heart of Italy, the cause and source of all the evils of this unhappy country ; whereas, in truth, it is to the priestly Sovereign that the people turn for protection from their more immediate rulers. And indeed a Sovereign, with a civil list of 600,000 crowns—a sum sufficient to maintain not only his own sacred person, but the College of Cardinals, the Apostolic Nuncios, and the Noble and Swiss Guards, as well as to provide for the Pontifical palaces, libraries, and galleries, &c.—can be no very heavy burden to the people whom he rules. It is because the Sovereign is a Priest, that the people have to give so little for his support.”

The writer then went on to develop still further the reforms introduced since the return of the Holy Father ; and to show that his Papal States are not quite so badly off as the author of “ *Napoleon III. et l’Italie* ” wanted to make out—

“ Among the propositions of reform said to have been suggested by France in ’57 we find the following, one evidently much desired by the author of the pamphlet :—‘ Representatives of all the interests of the country elected by the provincial councils or at least chosen by the Pope from lists of candidates presented by such councils shall be summoned to deliberate on all the laws, and to vote the budget.’ ”

“ Now how does the case stand ? It is true, that there is no free

tribune, nor is there a free press ; but then, as the *Civiltà Cattolica* very well remarks, it has not as yet seemed good to the wisdom of Napoleon III. to make these concessions to France, although his throne is supported by half a million of bayonets. Indeed, I should doubt if any man in his senses would fix upon such institutions as exactly suited to the present wants, or the present state of Italy. But there is, and there has been for some time past, an institution which seems in a great measure to harmonize with that which is said to have been proposed by the Government of France. I refer to the Consulta of State for Finance.

“This body is, as already mentioned, composed of members chosen by His Holiness from lists of candidates presented by the Provincial Councils. These candidates must be thirty years old, and must possess property to the value of about 10,000 scudi, unless they be professors of a public university, when a funded property of 2,000 scudi will suffice. The number of the Consultori corresponds with the number of the provinces, but the Holy Father has the right of directly nominating certain others in addition. The Consulta is presided over by a Cardinal, or in his absence by a prelate : at present all the ‘ Consultori,’ with the exception of two, are laymen.

“The Consulta resembles, in some respects, the Corps Legislatif of the French Imperial Government. Its sessions last three months, and it generally meets three times a week. The object of its deliberations is the examination of the finances, and its opinion is taken upon questions of agriculture, industry, and commerce. It has also to report upon the Budget, before it is presented to the Holy Father for his approbation. As a proof that this report is not a mere form, I may mention that for the last three years the Budget presented by the ministers has been considerably altered by the Consulta, and this alteration has in every instance been approved of by the Holy Father. I may add that the Budget is prepared and examined with a conscientious accuracy and minuteness, which even constitutional states might do well to imitate. Was the author of ‘Napoleon III. et l’Italie’ aware of, or had he forgotten the existence of the ‘Consulta?’ ”

The Code Napoleon says the Emperor. That is a *sine quâ non* of good government in Italy. Passing by the singular ignoring of the Code Justinian, and the criminal code existing in Rome—what is the opinion of lawyers as to the boasted Code Napoleon? Here we quote from an article in the *Law Times*.

“Let us turn to the much-boasted ‘Code Napoleon.’ The laws of Napoleon are *not* embraced in a single code. There is the code civil, the code de procedure civile, the code de commerce, the code d’Instruction crimenelle and the code Penal. But even all these

together do not contain the whole law of France. Portions have since been codified, and there is to this day a great mass of law not at all codified. All laws passed by the legislature for the time being are published in the *Bulletins des Lois*, a work of great size, yearly increasing. Nay more, the codes have not been spared, stripped of the lion's skin they have been boldly cut up, and amended, like less pretentious pieces of legislation. Then look at the text books and commentaries which these codes have occasioned, one in thirty, another in 50 volumes. Why here are codes scarcely half a century old—we have more law text books than are to be found on the whole common law of England. Add to these the *Bulletins des Lois*, a publication which rivals our Statutes at large, and what becomes of the code?"

So that after all there is no single Code Napoleon, but half a dozen different codes. And these are not complete, and when altogether do not contain the law, so that in truth France has not a code any more than England. But Rome has.

Very naturally, indeed, unavoidably, the writer was led to make some remarks about the bad faith and bad feeling in which these attacks upon the Papal Government were made:—

“Among the reforms demanded by France (see the pamphlet *Napoleon III. and Italy*) is ‘the secularisation of the administration by the formation of a Council of State composed of laymen, and charged with the examination and discussion of the laws.’ Now this council not only exists at the present moment, but has existed for several years, having been established by a decree of the 10th September, 1850. It is composed of nine ordinary and six extraordinary councillors. It is presided over by the Cardinal Secretary of State. At present, all the ordinary councillors, with the exception of one, and all the officials employed in the service of the council, are laymen. It is the duty of the council to discuss whatever new laws may be projected, and the interpretation of the laws actually in force, when this is necessary. The examination of municipal laws, the approbation of the acts of the provincial councils, and other matters referred to its consideration by his Holiness, form the chief duties of the Council of State. Of course the Sovereign is not bound by these deliberations of the council; but I can assure your readers that, during the last eight years, the Holy Father, after hearing the opinion of his ministers, has adopted many of its suggestions. How then could France demand a reform, which has been actually carried out? Ignorance, I again repeat, cannot be pleaded, for M. de Rayneval had long before assured the French Government of the existence of the ‘*Consiglio di Stato*.’ How then are we to account for the demand? Probably he alone

can answer who has inspired, if not written, *Napoleon III. and Italy.*

“I may add, that, besides the ‘Consiglio di Stato,’ there is also a Council of Ministers. These are four in number, viz., the Minister of War, the Minister of Commerce, Public Works, &c., the Minister of Finance, and the Minister of the Interior, Grace and Justice. The Police is annexed to the Ministry of the Interior. Each minister proposes to the Holy Father reforms, modifications of the laws, &c., &c., within the limits of his own jurisdiction, and these propositions are referred to the Council of State, or to the Council of Finance, of which I spoke in my last letter, for their opinions on the subject. The ‘Consiglio dei Ministri’ is often presided over by the Holy Father himself.”

Of course the Pope is at the head of the Papal Government. It must be so. And his government must be ecclesiastical. This, we repeat, is the root of the question.

So far as the attacks upon the Papal Government are real, they resolve themselves into this, that it is Papal. But that means only that it is ecclesiastical. And that is a complaint which, in an admirer of our ancient or present constitution, is hardly consistent. We have bishops in the House of Lords, and clergymen among our magistracy, besides having our universities governed by ecclesiastical dignitaries. Let us be candid then. If ecclesiastical rule is vicious necessarily and in its own nature, we share the reproach, and should remove it from our own constitution before we revile the Romans for it. This has not escaped the observation of foreign journalists. Thus in the course of an article in which the *Univers* vindicates the actual political organisation of the Papal States, it says:—

“The ecclesiastical element must dominate, and in fact does dominate, at Rome. The Pontifical States form the patrimony of the Church. The cardinals, principal advisers to the Pope, naturally take part in the government. They constitute the political family of the sovereign, and possess rights claimed elsewhere by princes of the blood. Amongst them exists the man they will one day raise to the sovereignty. And it is suggested that these Princes of the Church should be systematically removed from public affairs! The idea is iniquitous and insane. In this case, secularization would be more complete in the Papal States than anywhere else. The English, warm partisans of Roman secularization, have a Bishops’ Bench in the House of Lords, whilst the constitution of 1832 gives a seat in the Senate to our Cardinals. The first rank, even in political order, cannot be withdrawn from the members of the Sacred College at Rome, and they will continue to have eccle-



siastics for assistants since they will be succeeded by ecclesiastics. Nevertheless laymen in the Papal States are not pariahs ; they have their entry to the Council of Ministers ; they are governors or prefects ; they figure in the first rank of the various public offices, and take a great share in public instruction. This, in addition to election functions and the military career, is sufficient to occupy the activity and satisfy the legitimate ambition of those who seek to serve their country. 'To require more would be to prepare the way for the revolution.'

We have seen that the Papal Government is not at all necessarily antagonistic to lay administration. But it is equally clear that there can be nothing necessarily vicious in clerical administration, according to the principles of our own constitution, or why does such an element enter so largely into it ? There is a feeling against it, but it is regarded by our educated classes as a prejudice. Not, as we have seen, that Papal rule involves the exclusion of laymen. On the contrary, Ranke tells us that the Papal Government freely employed laymen. And Farini is obliged to acknowledge that laymen vastly preponderate in number. But this does not satisfy the enemies of Papal Government. Of course it does not. They desire to destroy it. Thus the *Times* correspondent not long ago was compelled to admit that laymen are freely employed.

"As far as the *personnel* of the government is concerned, so far from having been secularized, it is eminently ecclesiastical, and being ecclesiastical, it must necessarily be anti progressive, since its very existence in its present palmy state demands that it should be so."

Presuming that his readers were ignorant of Ranke or Roscoe. He then went on to abuse the Prelature of Rome.

"One word more, however, as to the class of prelates, among whom, doubtless, there are many excellent and learned men. Still the tendency of their position is to corrupt them, and make them some of the worst members of society,—to-day ecclesiastics, when ambition tempts them, and to-morrow civilians, when the attractions of the world invite. There is as great a want of fixity in their principles as in their positions. They remind me of those doubtful personages who in the Middle Ages in our country, or at the present day in Italy, live upon the 'border.' They jump from one estate to another, as the circumstances of their condition may require ; 'and thus,' say the Romans, not I, for I cannot examine



into details, 'as a class, the prelates are the most corrupt in the Papal States ; better by far for public morality if they were bound by some stringent and permanent obligations. How any man of honour can assume the semblance of a priest merely to take office it is difficult to imagine.' Altogether, the prelacy in the Pope's dominions has fallen into discredit."

Now contrast this with a passage from *Spalding's Italy*.

"Though the highest offices are still confined to churchmen, yet in most of the inferior departments the laity have of late been much more freely employed. Long ago, moreover, it had been found necessary to institute an intermediate order between the laity and ordained priesthood, in which public men might rise, through the inferior rank of Prelate or Monsignor, to the dignity of Cardinal. The Prelature effected some good by that training to legal business, which is the condition of admission to the first step, the appointment as an honorary assessor or Referendary to the Segnatura."

Thus Spalding, a writer sufficiently prejudiced against Rome, describes as an advantage what this ignorant newspaper writer scoffs at as an abuse. The latter, returning to the subject, "that the lay element in the Papal Government is in perfect subservience to, and in complete dependence on, the ecclesiastical element," says:—

"If the question is to be determined by numbers, I grant that the government has been secularized ; if by quality and power, again with redoubled force I deny that it has been so. The provincial magistracy are laymen—that is to say, the *giudici minori*—sometimes called *governatori*—of the smaller towns, and the *giudici* of the *capi luoghi*, or principal towns, are, I believe, to a man seculars ; but all the judges of the courts of appeal, before whom the decisions of the provincial magistracy are liable to be finally brought, are ecclesiastics. Thus, while on the one hand there is an appearance of liberality and of conformity to the customs of civilized states, on the other there is a provision for neutralizing the lay element altogether. Numbers are against me, but quality and power support my point."

That is, the government is ecclesiastical. Of course it is, for it is Papal. But what is very amusing, the writer assumes, as all writers of his class do, that ecclesiastical rule must be bad. He goes on :

"The judges of the Supreme Criminal Tribunal of Justice consist altogether of Monsignori. By the Sacred Canon Law these gentlemen are forbidden to intermingle in affairs of 'blood,' and it

needs, I have been told, a dispensation from the Pope when such cases are brought before them. Before this court, too, are tried political offences, I am informed; and a great outcry has been raised on this point, as it establishes the supremacy of ecclesiastics not merely in ecclesiastical but in political matters as well. Once more, the judges of the Supreme Tribunal of Appeal, the *Sacra Ruota*, are also composed of ecclesiastics—in short, however multitudinous may be the inferior magistracy, who are laymen, an appeal from their decisions lies to the judges of the Supreme Courts, who are ecclesiastics. Let us now consider the constitution of the police authorities. Up to the year 1858 in all the provincial courts of police there were directors, having the rank and honours of colonels in the army. True, they depended on the Delegate of the Province, who was a Monsignore; still their rank gave them a certain independence of action. To render the director, however, more dependent, since the year I have mentioned above simple secretaries have been substituted for gentlemen bearing the rank of colonels, with the wretched monthly pay of 25 scudi (or £5) for those of the first class, and 14 scudi (or about £3) for those of the lowest class. Now, let not the power of these ill-paid starvelings be forgotten, and do not let your ideas of it be regulated by the precise rules which are laid down for the conduct of our English police authorities, and, while you remember, imagine, and don't be afraid of colouring too highly, the excesses which are committed to supply the wants of an ill-paid policeman. This is, however, foreign to my subject, so let me return from my wandering. We will leave the provinces and come up to Rome. There we shall find the head of the police a prelate, bearing the titles of Director-General of the Police and Vice-Chamberlain of the Holy Church. The union sounds harsh to unpractised ears. What has a prelate or Holy Church to do with pickpockets, petty larceners, and murderers?"

Here the ignorant writer forgot our own clerical magistrates on every bench in England, committing "pickpockets, petty larceners and murderers."

"Cannot each be contented in his or its proper sphere with diffusing through society the gentle spirit of Christianity, and recommending the Gospel they profess by holy living? It is but a silly question."

So we think in this country; at least most of the readers of the *Times*, and the *Times* itself would treat it as a "silly question" if it were asked by a radical orator at a popular meeting as it has often been.

"Rome has decided that its head policeman must be a prelate—any layman must obey. Nor are things better conducted in the administrative departments of the state. In fact, the delegates of

provinces, who exercise complete control over the communes, are Monsignori. Now, it is in the administration of the communes and the provinces that are cradled the liberties of the people; there they sleep fast enough at present, and it may be easily imagined that a Monsignore, true to the interests of his body, would be much more disposed to administer fresh opiates than wake the sleeper to life."

Which merely means that the Monsignori do not wish the people to rebel. And pray what of our own clerical magistrates? We are aware that there is a feeling against them for which we fear there is some foundation. Undoubtedly in excuse for it there would be no difficulty in finding what cannot be found against the Roman ecclesiastics—viz. definite instances of proved harshness, injustice and oppression. The feeling however exists, and we have no doubt that it is the great cause of the prejudice against the Roman ecclesiastics, whom the English people are apt to fancy like their own.

But is it not by the educated classes deemed a prejudice? and what we desire to be observed is the quiet assumption that ecclesiastics must be bad rulers, an assumption in the face of all history, and falsified by the present as well as by the past; as indeed the newspaper writer himself has to admit, for he has to acknowledge that some of the ecclesiastics are able and honest men. Nor, be it observed, does he venture to say that any of them are not so. He assumes, or leaves his readers to assume, that the rule of ecclesiastics, for some reason, quite recently discovered, and not disclosed, must necessarily be bad. All through the *diatribes* of the *Times*, this is quietly assumed, or boldly asserted. No attempt is made to prove it. It is deemed hardly necessary even to assert it. Enough to show that the rulers are ecclesiastical.

"The Consulta della Finanza, whose duties are of the highest importance to the State, is composed of Prelates. This is true in a special sense of that Permanent Commission which holds its sessions throughout the entire year as the guardian of the interests of the Consulta. I have been told that several of the members of this Commission, whose names I suppress, have been recalled from the provinces which they governed for maladministration, and have been rewarded with the office of surveyors over the highest interests of the State. And who are they who fill the highest offices in the gift of the Tiara? Are they the members of those fine old

families whose names have adorned the history of their country for ages? Are they taken from the rich landed proprietors?

Here we may pause to make a passing comment on the consistency of the *Times*, which in the course of a week or two was holding up to reprobation (with far more truth and justice) the Roman nobility. Now mark, he does not venture to speak so of the ecclesiastics. All he can say of them is that they *are* ecclesiastics.

“Do they represent the commercial interests of the country? Listen to who they are. There is Cardinal Antonelli, Chief Secretary of State—Cardinal Roberti is President of Rome and Comarca; a cardinal or prelate is at the head of the ‘Censo;’ Cardinal Berardi is the substitute of Antonelli; Monsignore Pila is Minister of the Interior; Monsignore Amici is Minister of Commerce; Monsignore Ferrari is Minister of Finance, and *not a bad one*, or at all events a great improvement on his predecessor; he *is a thoroughly honest man*. Thus the magistracy, the police, the provincial and financial administration of the country, and the legislative and the executive power, are altogether directly or indirectly in the hands of ecclesiastics, and Rome is what it is because these things are so.”

No attempt is made to show the truth of that assertion, or rather insinuation. For it is *insinuated* that Rome is badly ruled, and assumes that it is because it is ruled by ecclesiastics.

“I am checked, however, in my statements, and am charged with incorrectness. ‘These titles of prelates or Monsignori are, after all, mere fictions,’ I am told. ‘They do not imply that a man has taken the *ordine maggiore*, and those who have not may throw aside the habit of an ecclesiastic to-morrow and marry. Why, even Cardinal Antonelli may enter the marriage state. Rome is then, after all, virtually governed by laymen.’ Cardinal Antonelli has assumed, I believe, the *Suddiaconato*, one of the *ordini maggiori*; he is indisputably an ecclesiastic, and is Secretary of State for the Papal Government. All who enter the Papal service as Prelates or Monsignori, whether they have or have not assumed the obligation of either of the two orders described above, are for the purpose and the time ecclesiastics. They wear the ecclesiastical habit, they must observe or at all events take vows of celibacy during office, they are component parts of an ecclesiastical body, and are full of the *esprit du corps*. To allow of these men being called laymen they should or might have wives while in office. This is denied them.”

According to which, the fellows of our English colleges

are not laymen ! No grounds are given, be it observed, why unmarried officials, lay or clerical, should be bad rulers, or why, if clerical, they should be worse than if lay. No grounds are given for the dislike of ecclesiastical rule.

In the Emperor's pamphlet, some grounds were pretended to be set up for the assumption that ecclesiastical government is necessarily evil. We have quoted the passage in which it was objected that the Roman government was fettered by an "iron and inflexible" canon law. This was well answered by the *Civitta Cattolica* ; which, while it maintained the great principle on which this whole question really depends, viz., that political rule is necessarily connected with morality, combatted the false assumption, or pretence, that civil rule must be inflexibly in accordance with canon law :

" We are at a loss to understand what M. de la Guéronière means with his Catholic authority applied to the interests of temporal order, which authority, he adds, not admitting discussion, which is also indispensable for temporal interests, constitutes the first difficulty for an Ecclesiastical government. Now where has he learnt that Ecclesiastical authority does not admit discussion ? And, even if that was the case, what has it to do with the discussion of things relating to public administration and that of justice ? He thinks, perhaps, that in these States, to examine the laws and judge legal cases, there are councils *en permanence*, who make so many dogmas of either of these. And even then discussion would no more be sequestered than it has ever been sequestered in all councils ; and we could tell him that perhaps it might turn out too prolix for the impatience of contending parties. Does he think that in imposing additional burdens and in exacting them, St. Athanasius's Creed, or the Nicean one, is to be consulted ? Putting aside such a ridiculous means of applying Catholic authority to temporal interests, such a formula can only mean this, that the eternal laws of justice, explained and applied by Catholic authority, preside over the administration of temporal interests. And in this sense (which is the only possible one of that formula), we do not know how it can be made a charge against the Pontifical Government, since it is the indispensable condition for the well being of every government, as it has been the law which civilised Europe, and from the abandonment of which begins the return towards barbarism, towards which the decrepit and gangrened civilization of our times is gravitating. Let the worthy author be persuaded that the most efficacious means of staying revolutions, would be precisely Catholic authority applied to temporal interests.

" But really, talking of the present time, does it seem tolerable

now-a-days, that we ought to have for the law of the people ‘Canon law as inflexible as dogma, immutable in the midst of the progress of the age?’

“Here we know not what most to deplore in the writer, either the ignorance of facts, which makes him believe that Rome is governed by canon law only, or the ignorance of principle, which makes him suppose that canon law is, in all its parts, as inflexible and immutable as dogma. There is certainly in that law a dogmatic part which is, accordingly, immutable; but this has nothing to do with the practical dispositions of its legislature and judicature. What regulates some of the details appertaining to both is what we may call its disciplinary part, which existed in all its vigour till recently, in all the Catholic kingdoms of Europe, and which flourishes still in England itself, almost more so, we should say, than in Rome, without its exhibiting the stand-still and inflexible immutability so much dreaded by our author. Therefore whoever told him that this disciplinary part of canon law is immutable, told him as much as that Pontifical authority, which sanctions it, cannot modify it as circumstances require; as much as that the Council of Trent did not bring about many changes in it; as much as that canonical dispositions are not, even in our own days, occasionally suspended, changed or abrogated by whoever has the authority to do it.”

It is so even in other countries; how much more so at Rome, where the Head of the Church resides with plenary powers of dispensation, and every facility for resort to it?

But what *practical proofs* have been given that clerical rule is inimical to real liberty or to national prosperity? Proofs enough have been given to the *contrary* in past history.

The Mortara case was made the most of by the French and English governments, to make a case against the Papacy upon the pretence of the incompatibility of canon law with civil and religious liberty. With that case, we dealt in our last number, and showed the Papal decision was in conformity with the principles of our own jurisprudence. An attempt was lately made by the *Times* correspondent to recur to and revive the agitation on the subject:—he said:

“It is well to state that this is not the only case of a similar kind which has occurred of late years. In 1852 a French gentleman and lady, of the Jewish persuasion, were travelling from Marseilles to Naples, when, on arriving at Civita Vecchia, the lady was suddenly taken ill, and soon after landing was confined. The nurse who had been called in, baptised the child secretly, informed the



authorities of the fact, and they sent and removed the child. The father immediately applied to M. Rayneval, at that time the French Minister at Rome. M. Rayneval lost no time in applying to the Papal government, which replied that it was impossible to give up the child, as it was a Christian. On this, M. Rayneval replied to the Cardinal Secretary that the child was a French subject, and that the French government would be little disposed to tolerate such an act. This was sufficient to bring the Papal government to its senses, and it intimated that if the French government would give a guarantee that the child should be educated as a Christian, it should be given up. M. Rayneval replied in a very clever letter that he could not give those pledges, but that he had no doubt that the French Government would do so, and the child was given up, and sent off immediately, together with the correspondence. Now, in this case we have got a step further; it was a French not a Papal subject that was seized; and on the very same grounds a British subject may be seized; the child was a Jew, indeed, but the restriction is not to the Jewish body; any one, in fact, beyond the pale of the Roman Catholic Church, be he Jew, or Protestant, Roman, French, or English subject, is liable to be seized by the Papal authorities on the showing of any profligate, ignorant woman, that she has sprinkled water on its face, and muttered a formula which she could neither read nor write, and certainly has not the comprehension to understand. Such are the inconveniences and excesses to which an English lady, not of the right faith, is exposed in the Papal States. A similar case may not occur once in a hundred years, and it may occur to-morrow, but the very possibility of it should be enough to unite the whole non-Roman Catholic body in protesting against an assumption which is contrary to the law of nature, destructive of social liberty, and from its very practical absurdity is calculated to bring true religion into contempt."

The value of all this can be easily made manifest. The law of the Papal States, in the first place, only applies to its own subjects, either born or *domiciled*. Mere *transit* through a state does not create a *domicile*, which requires a real change, or rather transfer, of home and residence. Therefore the supposed French case (if it ever occurred) had nothing to do with the matter in hand, and did not at all resemble that of Mortara, who was domiciled in Rome, and a Roman subject while he resided there. The principles of all jurisprudence restrain the benefit and the obligation of the laws of a state (save for mere purposes of protection, or police) to those residing in it. Well then in the next place, the law relates only to Jews, and could never apply to Christians. Then again, what-



ever the nature of the law in question, it has nothing to do with the Papacy; it did not originate with the Papacy, it existed ages before the temporal Government of the Papacy; it was established by the edicts of Emperors, from Constantine, to Theodosius, and Justinian. The Popes found it in Rome; the Roman people never have desired it to be altered; for a thousand years it has been the law, the civil law of Rome; it was part of the Roman constitution when the Papal rule began, and it is simply a piece of ignorance to make it a matter of reproach against Papal or Ecclesiastical rule. It is a portion of Imperial Legislation, and existed in the German empire under the most anti-papal Emperors.

This shows in what utter ignorance these prejudiced accusations against the Papal Government originate.

Here we may properly make some remarks upon a kindred part of the subject of what is called the repressive character of Papal rule. The *Times* was continually telling us (before the war,) of the “dull, hopeless, stupid tyranny of the Papal Government.” And not long ago “our own correspondent” wrote in this exciting strain:

“I have read in tales of horrors of the loaded tester of a bed being let down slowly and silently upon the unconscious sleeper, and thus smothering all vitality. I am reminded of the tale in Rome. The Papal Government is a loaded tester; it descends gently, if you like, upon the public mind, but it effectually destroys its vitality, prevents all power of motion, and then takes merit to itself, as it has recently done, for the tranquillity and contentment which generally prevail. And yet the Papal Government would be defended by many as a good paternal Government—as tending its sheep in true old patriarchal style, leading them to still—very still—waters, and carrying the lambs in its arms. It sounds all very pretty and Arcadian, but the Romans have a special objection to be regarded as sheep, are fully alive to the degradation of their position, and will certainly avail themselves of any favourable opportunity which presents itself for removing the evils of their social state.

“I spoke in the beginning of my letter of the suppressive system which is practised so perseveringly in Rome, and a number of little incidents might be repeated in illustration of it. Whatever may be the restrictions which are actually imposed on the circulation of foreign journals in Naples, they are as nothing compared with those insisted upon in Rome. The loaded tester sometimes comes down upon the entire importation of a post, and Rome is left in darkness as to what is going on beyond the walls. Papers are

mutilated, private individuals are kept without the journals, which are permitted in other quarters. Thus there is a caprice about the suppression which adds to the vexation, and even foreigners, who in the Two Sicilies at least have a certain degree of consideration accorded to them, are treated with the same equal-handed annoyance as the native."

The upshot of all this was, that sometimes, when the *Times* was unusually impious and scurrilous, its circulation was stopped in Rome. No great marvel, when it contained such passages as this :

"The Papacy, in itself a model of misrule, and uniting all that is at once hateful and contemptible in a decrepit despotism."

Not long ago the *Times* wrote thus of the population subjected to the Pope's temporal power :

"There has been a kind of feeling that the race which inhabits the States of the Church is the last from which free aspirations or intellectual efforts could be hoped. Educated by an army of priests, accustomed to no event more important than a canonization, to no national gain more glorious than the receipt of a new relic, deriving their highest pleasures from some pageant of the Church or the buffooneries of a carnival, they must, we have thought, be the contented flock of the Papal Shepherd, and have no desire to be quit of an ignorant and humiliating, though not violent, despotism. During the last ten years the States of the Church have, by all accounts, been going from bad to worse. The description which men of all opinions give is the same. All agree in the settled antipathy of the people to the Ecclesiastical rule. The Ultramontane devotee or the crotchety English pervert attributes the state of things to the baneful influence of Democracy, to the spread of Atheism, and to the direct attacks of Satan on the Church of St. Peter. But they do not deny its existence. They are obliged to confess that the Roman people, the unreasonable and wicked Roman people, all want to get rid of Cardinals and Monsignori, and to introduce institutions similar to those which prevail in heretical countries. Ask any man of liberal opinions who knows the country, and he will tell the same tale, adding bitter comments on the dull, narrow stupidity, of the priestly class, and the weariness and hopelessness which drive quickminded men to desperation. Yet, so sundered are the Roman people from our knowledge, so completely is the public expression of political discontent prevented, that even now we have hardly a thought for them, while Hungary, or Lombardy, or the Principalities engage all the sympathies of our liberal philanthropists.

"We cannot think that our countrymen are fully aware of the leaden oppression which reigns in the Papal States. We would

not calumniate the Government of Pius IX., but the condition of the Roman is, perhaps, worse than that of the Neapolitan or Florentine. The Papal Government is *essentially the worst of Governments.*"

Essentially. That is necessarily. Necessarily because it is Papal. This was shown by what followed. The writer went on to state the sum of all the evils he had denounced:

"They are all summed up when we say that the Italian of the Papal States has no career, material or intellectual. *The priesthood is all in all*, and unless a young man enrolls himself in this Order, he is nothing, and can be nothing."

That is, the Government is Ecclesiastical, as it must be, if Papal. The supreme power must be Ecclesiastical. For the Pope is a priest, and his constitutional counsellors, the Cardinals, are ecclesiastics. And this the *Times* denounces to the Roman people, as "essentially the worst of governments," and instigates them to get rid of and abolish altogether. Now this was simply stirring up rebellion in the Papal States. The circulation of such incitements to revolt, among its subjects, is what no other government in Europe will allow, not even our own. There is upon this, as on all other topics of reproach against the Papal Government, a miserable ignorance which is necessarily the mother of prejudice. The people who abuse the law of Rome do not know the law of England. What is the law in our own country on the subject of seditious publications? It is as severe and repressive as any in the world. With regard to political matters the rule is thus laid down: "In general, publications upon the constitution, avoiding all discussions of personal rights and privileges, are not calculated to generate popular heat. But if they should be of a different description, tending to vilify and degrade the constitution, to promote insurrection, and to circulate discontent among its members, they would, without doubt, be considered as seditious and criminal." (Russell on Crimes, London, 1843, edited by C. Greaves, Esq., Q.C.) As to the extent to which the measures of the government may be discussed, the same learned author lays it down that the test is, "Has the communication a plain tendency to produce public mischief by perverting the mind of the subject and creating a general dissatisfaction towards the government?" And it is added: "Libels

on persons employed in a public capacity receive an aggravation, as they tend to scandalize the government by reflecting on those who are entrusted with the administration of affairs; for they not only endanger the public peace, as all other libels do, by stirring up the parties immediately concerned to acts of revenge, but also have a direct tendency to breed in the people a dislike of their governors, and incline them to faction and sedition. If a paper has a direct tendency to cause unlawful meetings and disturbances, and to lead to a violation of the laws, it is a seditious libel." (Ibid. 237.) The late Lord Ellenborough is quoted, by the learned editor, (writing in 1833,) and still more, with approval, as saying: "It is no new doctrine that if a publication be calculated to alienate the affections of the people, by bringing the government into disesteem, whether by ridicule or obloquy, the person so conducting himself is exposed to the inflictions of the law. It is a crime: it has ever been considered as a crime, whether wrapt in one form or another." Therefore it is in perfect accordance with the principle of English law, that a Roman minister prohibits the introduction or circulation of publications tending to hold up to obloquy the Roman Government. Indeed, the law does not allow of these attacks upon the Sovereign of the Papal States which we daily see in the press of this country.

Upon the ground that malicious and scurrilous reflections upon those who are possessed of rank and influence in foreign states, may tend to involve this country in disputes and warfare, it has been held that publications tending to degrade and defame persons in considerable situations of power and dignity in foreign countries, may be treated as libels. Thus, in 1801 a person was convicted for saying of the Emperor of Russia that he was making himself obnoxious by acts of tyranny. And soon after, in the case of Peltier, tried for a libel on the Emperor Napoleon, Lord Ellenborough said: "I lay it down as law that any publication which tends to degrade, revile, and defame persons in considerable situations of power and dignity in foreign countries, may be taken to be, and treated as a libel." And the defendant, despite the brilliant defence by Sir James Mackintosh, was convicted. It is plain that upon this principle many persons might, and if the law were fairly administered, would be convicted for atrocious libels on the Pope. But who dreams that by

common juries the law would be fairly administered in such a case? And of course it would require the verdict of a jury to convict. Even for blasphemy our Government is almost afraid to prosecute.

But it has been over and over again laid down by our Judges, that it is not lawful to attack the Christian religion. And the late Mr. Baron Alderson laid it down that it was not lawful to attack the Established religion, "because it was part of the constitution of the country." (Gathercole's case, 2, Lewin, 237. Russell on Crimes, p. 233.) In that case he said that it was lawful to attack the Roman Catholic religion in this country, because it was not established. And the late Lord Denman had so laid it down in the case of the Rev. Mr. Hearne (*Hearne v. Stowell*, 12, Adolphus and Ellis); but it would of course follow from the principle laid down, that it would not be lawful to attack the Roman Catholic religion, if it were established. And that being the established religion in Austria and Italy, it is in conformity with the principles of the English law, to punish or prevent attacks upon it in those countries. There is no escaping from this conclusion. And hence, strange as it may seem to those who claim it as a part of Christian liberty to revile or ridicule the religion of their fellow Christians, it is not a license recognized as regards foreign countries by the English law, and the prohibition of it abroad is in strict accordance with our own principles of liberty and law.

While we are writing these lines a very curious illustration of our argument has arisen, which we cannot do better than convey in the words of our contemporary the *Register*.

"A controversy has been raised by a very indecent and scurrilous assault on the character of Sir John Taylor Coleridge, the lately resigned Judge of the Queen's Bench, made by Mr. Buckle, the author of the history of 'Civilization in England,' in the last number of *Frazer's Magazine*. An ill-conditioned fellow, who rejoices in the name of Pooley, took it into his head to write 'abusive remarks about Christianity,' on the gate of the parsonage of a Devonshire village. It appeared that he had also been in the habit of showing-off in the village ale-house by conversations of the same hateful description. He was prosecuted for blasphemy, convicted, and sentenced to eighteen months' imprisonment. This Mr. Buckle calls 'a great crime,' and sentences the 'cruel and coward, unjust and unrighteous judge,' a 'stony-hearted criminal,' with 'a

cold heart and narrow understanding,' to 'the sort of fame which he has amply earned.' Mr. Justice Coleridge, although very anti-catholic, is one of the gentlest and kindest of men, of a high sense of honour and a mind refined by education. But the case raises another question. Mr. Buckle calls Pooley's punishment for blasphemy a crime, and the press has set itself to show why it is not, it must be admitted, with limited success."

The prosecution against the Passionist fathers for Bible-burning is a recent and remarkable instance of the assertion of the very principle reviled in the law of Rome. In an article in the *Law Times* we find these remarks:

"A positive law makes scandalous blasphemy an indictable offence. It is a principle of our common law, confirmed by a succession of statutes, that whatever brings the established religion of the country into disrepute, is an offence against public morality and policy, as well as an outrage to the feelings of the majority of the people, and that therefore it is a fit subject for penal criminal law. Is the principle a wrong one? If so, let it be abolished by the legislature. Before the judge sentenced, a magistrate had committed for trial, twenty-four English gentlemen had thought that there was a case for the court, and twelve Englishmen found the charge proved."

Again the writer enters into general principles.

"Mr. Buckle is the apostle of liberty of religious thought and free discussion on all questions of theology. There is (he says) no bound to free thought and free argument in such matters."

"It is sad to see distinguished men upholding that license of language in which the liberty of the press seems likely to expire. The reckless ruffianism of free speech, the foul-mouthed virulence of unsupported invective, are not the life, but the diseased and unsightly excrescences of an age of liberty of conscience. The existence of an institution is its true title to respect. If it be wrong, let it be reasoned away, or even sneered away, or let it fall in the mighty uprising of a people; but if an individual attack it, (as by all means let him do, if he think it wrong,) let him learn that decency as well as truth is a law of philanthropy and civil warfare; that to insult a general sentiment is the way to confirm it, and that he who attempts to extirpate a popular sentiment by vulgar ribaldry, well deserves to pay a heavy penalty for folly and blackguardism. Who but a blackguard would attempt to explode an established religion by unveiled ridicule, still less by vulgar abuse?"

These remarks of the *Law Times* do it the utmost credit, and reflect terribly not merely on the person at whom they are aimed, but upon the all-powerful *Times*,



which exhausts all the epithets of vulgar ribaldry against the faith of the greater part of Christendom.

Which is just what Maitland said of the so-called "martyrs" under Mary, who virtually and literally did in Catholic churches what the *Law Times* here declares could hardly be too severely punished.

The article proceeds:—

"There are still laws against seditious libel not likely to be required or enforced; but suppose a pasquinade, attached to the gates of the palace, declaring the queen an usurper, and coupling words of abuse with her name, is Mr. Buckle prepared to claim the same impunity for such blackguardism that he claims very properly for abstract advocates of republicanism?"

This meets the very case we have put, of a newspaper or an orator in Rome declaring the Pope to be antichrist; that is, in effect, to declare him to be an usurper and impostor. Such an offence, on the principles of English law, ought clearly to be punishable by the law of Rome.

"This is one of the assumptions which many will question, but which we will grant. Since this is so, however, Mr. Buckle says, 'Therefore Pooley's persecutors were bigots, and he a martyr.' Not as we see it. Do our philosophers say that philosophical inquiry and *scurrilous invective* are the same thing?"

Now observe the instances and illustrations adduced, and see if they do not hit Exeter Hall hard.

"Suppose an English Christian were to enter a Turkish mosque, and there spit upon the Koran, and declare Mahomet an impostor."

Just as some rabid Protestants, even at the doors of Catholic chapels, will denounce the mass, in the language of the English Common Prayer, as "damnable idolatry," and declare the Pope to be antichrist. Mark what follows:—

"If he were torn to pieces by the infuriated congregation, could we have much sympathy for him? Yet the man would be proclaiming the doctrine of Christendom; but such a total disregard of the laws of logic and good feeling, so wanton an outrage on a national creed, on public decency and private belief, could scarcely be too severely punished."

We will now resume the comments of the *Register*:

"All the writers seem to agree, in the words of the Saturday Review. '*Bona fide* discussion is one thing and wanton insult



another, nor is there the slightest inconsistency in permitting one and preventing the other.' Nay, the counsel argued that though to attack Christianity in the way of *bona fide* discussion would be wrong, no one would think of punishing it as a crime; 'but to utter reproaches merely as reproaches and not as arguments, against beliefs entertained by a large majority of persons, and favoured in various ways by the law of the land, was a crime which deserved punishment like any other violation of public decency.' This we consider as remarkable a manner of stating the question as we have ever seen, for it seems to imply that if Christianity had been the faith only of a minority, or had not 'been favoured by the law,' there would be no breach of decency in this mode of attack. Probably he adopted it to avoid the difficulty into which others have less prudently fallen. For instance, the *Saturday Review* says that 'a missionary who should go into a mosque at Delhi and say that Mahomet was a villain, an adulterer, a rogue and liar, and a murderer, would deserve punishment;' and in like manner, one who should 'go about reviling the Saints or Virgin Mary in France or Italy.' But if so, why less in Ireland, or even in England? Nothing is more notorious than that men are allowed freely to revile all that Catholics hold most sacred, in speeches, by placards, by writings on the walls, and every manner of attracting attention which their perverse ingenuity can suggest. It is impossible to pass through Dublin, for instance, without having these things thrust upon us. Upon what principle can this be allowed, while Pooley's crime is punished, except it be because Catholics are in a minority in the British Isles, and their holy doctrine not favoured by the law? Indeed it must be the last only; for while Catholics are a large majority both in Dublin and in Ireland, Christianity itself is in a minority, if we include the whole empire of Queen Victoria. The fact is, the law is in a state of change. Time was when it punished blasphemy openly and avowedly as a great sin against God, the thought of which swallowed up what would else have been felt keenly enough, the outrage on decency and on the best feelings of men. The country is now so much divided in religion, that the legislature is compelled to recognise the notorious fact, that even if agreed, it has no more power of judging what is true than any one else, and that, in fact, every differing opinion is held by its own members. Hence, the law originally intended to punish blasphemy as such, is now used, only where there are other reasons, more or less valid, to make a particular instance of blasphemy singularly offensive. There is in this little to complain of, except that it practically protects only the feelings and views of the majority. We do not feel this as any great practical evil, because those opinions and views are such as all Christians agree ought to be revered. Mr. Buckle however, not sharing that feeling, denounces it as unjust, and it is impossible not to help feeling that the practical effect, which

allows the outrages of a Dublin Orangeman but punishes those of a Devonshire peasant is most unjust.”

It is impossible not to see the truth of all this, and the most practical illustration of it is the following, culled from a newspaper of this metropolis, which elicited no prosecution that we are aware of, although as much a violation of the law as the blasphemies of Taylor or Carlyle.

“From the *London News*, a weekly Chartist paper, conducted by Mr. J. Baxter Langley, we take the following announcement, which is inserted in the paper in question in the form of an advertisement:—‘South London Secular Institute, 132, Blackfriars road (opposite the Surrey Theatre).....The committee have great pleasure in announcing the following course of Sunday evening lectures.....On Sunday, November 28th, Mr. J. P. Adams of Philpot-street Institute)—*The abolition of Christianity necessary to the permanent welfare of mankind.*’ ”

Here is the practice of our country, but it is not in accordance with its law. Our *law* prohibits blasphemy, practically we permit it. It is only rarely and reluctantly that prosecutions are instituted—the law is the same. Why should it revile the Sovereign of Rome for following our law rather than our practice?

And this being so, the law of Rome is not one whit more repressive than our own. The English law will not allow of attacks against the sovereign’s title to obedience; and in Rome this depends upon the Catholic religion. For it is manifest that if the Pope is not the Head of the Church, he has no real claim to the sovereignty of Rome. And on the other hand, as a bad government necessarily involves injustice, and this involves morality, if men are led to believe the Papal Government to be essentially radically bad, it would go far to destroy their belief in the Papal supremacy. Thus, then, to revile and ridicule the Government in Rome, is far more serious than to revile the Government of any other country; and to revile or ridicule the Catholic religion is to strike at the very root and basis of the Roman Government. With what sense or consistency then, can any one complain of the Papal Government, for not allowing its own existence to be aimed at, its own foundations destroyed, by the circulation of such attacks as we have seen in the *Times*? It is a curious circumstance that the *Times* itself has had at last to complain of the self-same thing in Paris

which its correspondent was so much enraged at in Rome, viz. the suppression of its circulation. The "tester" was let down on France. And by whom? By M. le Gueronière, the author of "Napoleon III. and Italy," the pamphlet above referred to as holding up the Papal Government to reprobation. The author had his reward: he was even made Prefect of Police at Paris, and forthwith practised the very system of "repression" which was vilified at Rome.

We have said that the Emperor and the *Times* have joined in attacking the Papal Government. A few months ago the *Times* took care to remind us that just fifty years ago, by decree of the first Napoleon, "the Pope was deprived of his temporal power, and the Pontifical States were united to France. This event," said the *Times*, "happened on the 6th of July, 1809. By the 6th of July, 1859, the present Pope must shrewdly reconsider his position, or the old student's adage, that history does but reproduce itself in cycles, will probably have received yet another illustration."

The *Times* forgot to add what happened to the Emperor who did this, nor how soon after the Pope was restored to his dominions. It proceeded thus:

"In thinking and speaking of the Italian question we must ever put this matter of the Papacy broadly in the van, or we shall never get to the core of the business. A good settlement of the Pontifical States would, in the course of a very few years, prove a settlement of the Italian difficulty. Unless such a settlement be brought about we shall never have done with the Penelope's web of Italian politics. The Austrian soldier may hold the bayonet, but it is the Roman priest who practically directs him where to strike. We should be sorry that the solution of this question—as far as England is concerned—should be affected with any leaven of religious bigotry. We would see the question of the Pope's temporal power settled as a purely temporal one."

Which it can never be, seeing that the temporal dominion rests on the spiritual supremacy, and exists for its sake alone. And that is the very reason why the temporal dominion has ever been, and is, and ever will be, the mark and aim of the machinations of the Church's enemies in every land. Before it was established, Christ's vicar was forced to be the subject or dependent of a tyrant, and could be, at his pleasure, driven into exile or thrown into a gaol; just as Pius VI. was by Napoleon I.

The Emperor and the *Times* have worked in the same way, and by similar means and instruments. Each had "correspondents" in Italy. Here is a description of the *latest* of the Emperor's, taken from the *Telegraph*.

"A writer, Edmond About by name, became noted for the sparkling use which he made of a slightly unscrupulous pen; he could tell a dashing story, throw off a neat satire, and philosophise about men and things in that peculiar epigrammatic style which signifies nothing. The gentleman, of course, has been a Liberal; under the Presidency his convictions changed, and he was prepared to witness without a pang 'the saving of society;' the Empire completed his conversion, and, having cast his bread upon those purple waters, it returned to him after not many days. Behold M. Edmond About, with the Star of the Legion of Honour on his breast, contributing to the *Moniteur*. None better than he—at least none of those who were to be had—at the elaboration of smart things to be arranged in columns and paraded in public every morning; but, for a time, his pungency was wasted on the desert air. Why should not the Emperor turn his literary menials to account? So M. About was sent to Rome, as Special Correspondent of the Paris official organ; and we may be sure that he did not exceed his instructions. He began by ridiculing the Papacy, caricaturing the Pope, and vilifying his ministers; the *Moniteur* flamed with sarcasms and personalities. For M. About's individual opinion Pius IX. would have cared no more than did the Grecian Otho; but when these fulminations were imperially gazetted, free from censorship, unrebuked by the police, placarded on every public building and anathematized by the Jesuits, it was considered necessary to protest."

We request our reader's attention to this exposition, in a most anti-catholic paper, of the unscrupulous means resorted to by the Imperial policy to blacken the character of the Papal Government.

"Representations were made, therefore, to the French Government. That peculiar institution, which is known to have a tender conscience, though it sometimes acts thoughtlessly, immediately admitted the propriety of the remark from Rome. M. About found the doors of the *Moniteur* office closed against him. Singularly enough, although he must have seriously offended the Emperor by his plain speaking, he went on collecting materials for a systematic satire on the Papacy, and arrangements were made by his friends—including one or two of a very exalted species—in order that he might be as bitter as he pleased against the Popedom without compromising his master. It was finally resolved that the work, though printed in Paris, should be published at Brussels; but care was taken that, before any copies were circulated, twenty thousand

at least should be ready for sale in France. We have the best grounds for stating that the volume has been systematically distributed among the principal booksellers throughout the empire; and that it was an understood thing that, after the dose had taken effect, the Government, in order to deceive or conciliate the Jesuits, would institute a nominal prosecution. It must be conceded that Louis Napoleon exhibited admirable patience in dealing with this spirit of irreverential criticism embodied in M. About. The song was sung, and then the singer was gagged. France saw the Papal Court burlesqued, and it was then forbidden either to laugh at or malign the Holy Father, or aught pertaining to him. But we must congratulate the French Cabinet on its improved methods of judicial administration. Formerly, the censorship swept down upon every offender with implacable rapidity; now, the official personification of justice mildly sends for a copy of M. About's book, reads it, places it before the tribunals, and suggests that the author shall be prosecuted! This is a refreshing and a salutary change. Yet it is one which malignant people may misapprehend. Perhaps they will say that Louis Napoleon is in no hurry to suppress the obnoxious volume, because it was written at his instigation, issued under his virtual sanction, and designed to serve his purposes. What, however, is the work, and why does it excite all this commotion? Apart from the patronage of the French Emperor, M. About's treatise, we are bound to say, would be a comparatively innocuous missile. It is clever, vivacious, and sketchy. There are some sharp points in the satire, and there is no little scandal in the personalities; but, independently of the singular influence that prompted its production, the book is not of a nature to create a sensation. As a Bonapartist insult against the Popedom, however, it is a curiosity in literature, and was published, of course, to *excite in the public mind of France a contempt for every existing Italian government, that of Sardinia excepted, while furnishing an apology for the French Emperor's interference in the affairs of Italy. Never has any government been assailed with more deliberate ribaldry and contumely than that of the Papal States, by a literary agent acting for Louis Napoleon, eldest son of the Church.* M. About describes the Roman administration to be a compound of intrigue and selfishness, of craft and imbecility, of fraud and weakness, of license and hypocrisy; but the man to say all this is certainly not the French Emperor, who destroyed the Roman Republic, or M. About, a paid contributor to the Paris official organ, who may be fined by the tribunals for his scandalous attack on the Sacred College, but who, of course, will not have to find a farthing of the penalty."..... "It may fairly be a question whether it was decent, on Louis Napoleon's part, to instigate a publication which, however accurate, is nevertheless coarse and malevolent, an outrage upon the Pope, and a personal offence to every member of his government." "We cannot think much of M. About, who has been made the tool of

this libellous conspiracy ; but what must we say of the French Emperor, who employs these cowardly means to justify, in the sight of the vulgar, his Italian policy ? As we have said, M. About may be prosecuted, but the process will be a sham—for the implicated work, whatever the Paris tribunals may say, is scarcely less Louis Napoleon's than if it bore the Imperial cypher."

Is there any Englishman—Catholic or Protestant—whose heart will not echo this indignant denunciation by a journal, English and Protestant, of this libellous conspiracy against the Papal Government? And see the unworthy artifices resorted to :

"Mr. Edmond About's work on Rome, which had been printed at Brussels, was seized by the police last night, and is to be submitted to the tribunals. The work is very severe, or rather is very just, in exposing the horrible condition of the Papal States, and the Church party here was enraged beyond measure at its appearance. Some of the delicate Catholic-minded critics declared that its very presence was as offensive as a temple of *Cloacina*, and that, even in order to lay bare its awful mis-statements they could not again expose their delicate organizations to its contact. But, like almost everything here, there is a mystery in this matter, or rather there is a double game going on, which is intended to deceive, but scarcely takes in any but the most uninformed. The book now seized was not published without the sanction, or rather without the *advice*, of a certain very exalted personage. It has been well circulated and well discussed, and will be read and discussed with infinitely more gusto now that it is prohibited. The way in which it was seized, too, was characteristic of the government here. The capture was first made upon single copies at small shops, and sufficient notice was given to allow of stock being removed into places of safe custody. So the Catholic party has robbed some hundred booksellers of a copy or two each, while the work has been pushed before the public with all the *prestige* of interdiction, and the copies that have escaped the hands of the authorities have become of double value. The Catholic party has been all along dead against the war."

Take another account equally Protestant :

"There are few people in England at all familiar with literature whom his touching romance of 'Talla,' and his capital life-like racy sketch of King Otho, his queen, and his subjects, have not made acquainted with M. Edmond About. In the spring of last year M. About was sent to Rome by the Government on one of those comfortable missions which the French Government generously provides for clever literary men, who are not at the same time politicians. The mission consisted in spending the pleasantest part of the year in the Eternal City, looking about him, committing



what he saw and what he thought about it, to paper, and sending it to the *Moniteur*, whose heavy official columns could not but be made attractive by the keen wit and graphic description of M. About. He started on his mission, and a few weeks after his departure his letters began to appear in the official print. But, before half a dozen had been printed, the Government of the Pope became aware that there was a chiel among its subjects taking notes with a vengeance. That they could not help. But, at all events, they were determined to try whether they could not prevent him printing them in the *Moniteur*. The Nuncio in Paris was instructed to complain, and the consequence was that M. About was requested to discontinue his letters. He did not, however, on that account take his immediate departure from Rome; but tarried there until he had filled his note-book. The result of his observations is about to appear in the shape of a volume, entitled '*La Question Romaine*.' The Government have prohibited its publication here, out of consideration for the feelings of the Pope, and it will, in consequence, be produced in Brussels. In course of time thousands of copies will no doubt be smuggled over the frontier, together with Brussels lace and other tabooed dainties. In the meanwhile the *Nord* publishes extracts from it, which are very remarkable. About, in the preface, states his reason for not publishing the book in Paris is, that the Pope's arm is so long that it might reach him there. Some surprise was felt at its being allowed to enter the country, as the priests are too powerful to be offended; but it seems that a most jesuitical compromise was decided on by the authorities. It was determined to allow the introduction of '*La Question Romaine*,' and when several thousand copies should have been sold, to seize the volume. This is exactly what has taken place. The *Constitutionnel* to-day announces that the introduction of '*La Question Romaine*' was not authorised, and that the work is to be prosecuted. As it was published in Brussels it is not easy to see how this is to be done. Perhaps the booksellers who sold it are to be tried."

"Well, now, what are the opinions of the intelligent Frenchman respecting the Government of the Papacy? The first chapter bears the taking title of '*The kingdom of the Pope*.'

"In his second chapter M. About puts the home question as to 'whether the temporal power of the Pope is necessary?' but from the extracts quoted by the Belgian paper," says the *Telegraph* critic, "I am unable to say what conclusion he arrives at, or how he treats it. From his style, as well as from his previous works, however, I should feel inclined to believe that description is his forte; his light brilliant style, and his peculiar turn of mind, appear to me hardly suited to grave political and philosophical moralizing."

In short, he is a mere shallow scribbler, hired by the



Emperor: for the same purpose as M. de Guéronière, the writer of Napoleon III. and Italy, who has received promotion and reward.

We may fairly take the admissions of such an enemy of the Papacy, extracted from the midst of his ribaldry.

“The most remarkable chapters of his remarkable book are those in which he describes the condition of the various classes of the Pope’s subjects—the lower orders, or the *plebs* as he calls them by a classical reminiscence; the middle class; and the nobility:—

“‘The Gospel has omitted to consecrate the inequality of mankind, but the law of the state, or, in other words, the will of the Popes, takes care that it shall not be lost sight of.

“‘If I do not reckon the clergy as one of the classes of society, it is because it is alien to the great body of the nation by its interests, its privileges, and, above all, its origin. The cardinals and prelates cannot be properly called the subjects of the Pope, but rather his colleagues in God (*comperes en Dieu*), and the associates of his omnipotence.’

“The difference among the various classes of society is more perceptible at Rome and around the Pontifical throne, and becomes less and less marked, like many other abuses, as you remove from its source:—

“‘The plebeians of the Eternal City,’ says M. About, ‘are grown up children, badly brought up and perverted in different ways by their education. The government, which lives in the midst and is afraid of them, treats them gently. They are not required to bear a heavy burden in the way of taxes. The plebeians of Rome are sure not to starve. If they have not bread at home they can take a loaf from a baker’s basket, the law permits it. All that is required of them is that they shall be good Christians; that they shall prostrate themselves before the priests; humble themselves before the great; bow before the wealthy, and abstain from revolution.

“‘The country population, despised by that of the towns, is wretched, ignorant, somewhat fanatical, but good, hospitable, and generally honest. At nightfall, whole villages return home from the field. The men are handsome, robust, and would make good soldiers. All these half-naked men returning home with a hoe on their shoulder, rise in the morning two hours before day light to weed a little field, or turn up the soil around their olive trees. Some have their little property four miles from the village; they go there with the child and pig. The pig is not fat; the man and the child are very thin; nevertheless they are merry; they gather flowers along the road, and the boy comes home crowned with roses like Lucullus at dinner.’ ”

The picture drawn of the condition of the peasantry in the Papal States is not discreditable to the government,

and, we are sorry to say, rather resembles that of the peasantry on the rest of the continent, in Lombardy, Austria, France, and Belgium, than in Ireland, Scotland, or even in England. Nicholls, an eminent writer on the subject, says:—

“The small farms of from five to ten acres, which abound in many parts of Belgium, closely resemble the small holdings in Ireland; but the small Irish cultivator exists in a state of miserable privation of the common comforts and conveniences of civilized life, whilst the Belgian peasant farmer enjoys a large share of these comforts. The houses of the small farmers in Belgium are generally substantially built, and in good repair; they have commonly a sleeping room in the attic, and bed chambers connected with the lower apartment—a dairy, a granary, an oven, a potato house, with a roomy cattle stall, piggery, and poultry loft. The houses generally contained decent furniture, the bedding was sufficient in quantity; and while the scrupulous cleanliness of the Belgians was everywhere observable, an air of comfort and propriety pervaded the whole establishment. In the cow-houses the cattle were supplied with straw for bedding; the manure was carefully collected in tanks; the dry leaves, potato tops, &c., had been got together to ferment; and heaps of compost were in the course of preparation. The premises were in neat and compact order, and a rigid economy was everywhere apparent. The family were decently clad, none ragged or slovenly.....The diet consisted of bread and milk; the dinner being usually composed of a mess of potatoes and onions, with some slices of bacon.....*I need not point out the striking contrast of the mode of living here described, with the state of the same class of persons in Ireland.*”

Again, contrast Austria and Ireland.

“The celebrated Reichensperger, in his *Die Agrarfrage*, has an excellent chapter on the difference between the condition of the Irish tenant-at-will, and the German peasant proprietor. He shows that while the latter has every possible motive for exercising economy—while he is intensely interested in the cultivation of the farm that belongs to himself—while his dress, food, and house are all good and improving—while his position is one of comfort, independence, and security, the Irish tenant farmer is depending on the will of an agent or landlord, he feels no desire to save, or to expend his savings on his land, as he does not know how long it may be in his possession; his house, dress, and living are wretched, and the next step below him is famine and death.” (Letters on Land Tenure.)

So in Scotland. Not long ago the *Times* stated that the emigrants from one county amounted

“For the last seven years to above 8,000, mostly all agricultural

labourers and occupiers of small farms ; and this increased emigration continues. There is thus every prospect of a scarcity of agricultural labourers in the north, for not Aberdeenshire only, but other counties, are being similarly drained. There are various causes alleged for this exodus of agricultural labourers, the chief of which are, first, low wages, best ploughmen getting only from £6 to £8 in the half-year ; secondly, *the breaking up of the small farm system, which makes it hopeless for a labourer to look forward to getting a piece of land to farm for himself and family* ; and thirdly, the clearances and deer forests in the upper districts of the country."

We need not do more than remind our readers of the picture drawn of the condition of Ireland by the "Letters of Cosmopolite" in the columns of the *Times*. Suffice it to say that it showed a state of things just the reverse of the Italian or continental systems.

Mr. Mac Carthy, a recent able writer on the subject, considers the land tenure of other countries, and thus describes it:—

"The land-tenure of Europe may be described in one word—Peasant Proprietorship. The cultivator possesses the absolute ownership, the 'fee simple,' as we say, of the land itself. He pays no rent, and has no landlord. This is the system of land tenure boldly adopted and, after long experience, firmly upheld by the statesmanship of Europe. It is thus the great nations of the Continent have settled the land question.

"Do you wish to know specifically the countries that have adopted Peasant Proprietorship? Here they are : Norway, France, Belgium, Austria (Proper), Prussia, Switzerland, the Tyrol, Styria, Lombardy, Piedmont, Tuscany, Lucca.

"Now look at that list. It includes the most civilised nations of all time. It includes the garden-lands of the world."

And this resembles the state of the peasantry in Italy.

"When one travels through the whole of Switzerland, and through several parts of France, and Italy, and Germany, it is not necessary to inquire, when looking at a piece of land, whether it belongs to a peasant proprietor or not. The land of the peasant proprietor is marked out by the care which has been bestowed on it—by the neatness and perfection of the cultivation."

"Mr. MacCarthy then considers the effect of improved systems of tenure on the physical condition and the moral and intellectual character of the peasantry of Europe, with what results we may guess."

Now, be it observed, that Spalding, in his *Italy*, declares that in parts of the Papal States agriculture is to be found equal to that of Tuscany, while on the other

hand he speaks ill of that of Sardinia; and the *Times* correspondent lately declared that the condition of Piedmont is very inferior to that of Austrian Lombardy.

In middle Italy (says Spalding), the agriculture of Tuscany deserves particular notice, from the success with which it is practised, and the peculiarities which make it on the whole, a fair specimen of the art as it exists elsewhere; both in the Papal States and Naples. The system is described as one of peasant-proprietorship. A writer in the "*Tablet*," some years ago, very likely the late Mr. Lucas, wrote thus on the subject:

"Even in continental countries, where wide demesnes prevail and the number of proprietors is very scanty, few labourers are found working for daily wages without any other support. We find those great estates sprinkled over with farmers who pay rent, or *metayers* who divide the harvest with the landlord. Such farms are tilled by the family in common. Enormous estates on the Continent are dotted by very diminutive 'holdings.' It is otherwise in Britain, where the estates are vast, and, at the same time, farms immense, in which large capital is employed, and a swarm of men, animals, and machines, operate simultaneously. The large English farmer retains a number of domestics, and hires at particular times a legion of labourers; while in the other countries of Europe hired labour is the exception, and independent labour the rule. Among the agriculturists of England hired labour is the rule, and agricultural labour the exception.

"In Catholic ages vast estates likewise flourished, but it is only during the last half-century that monster farms advanced over and devoured the country, and completed the work which began with the monster estates. The ownership and even occupancy of the soil became the privilege of a few. Simultaneously with the rise of gigantic factories, and while the steam-engine superseded hand-work in the cities, agriculture was busy widening the farms, augmenting the pastures, and pulling down the cottages.

"When agriculture rose to the dignity of a manufacture, the peasant sank into the degradation of a factory hand. The labour of individuals was swept away by the gang system, where women and children blended with men worked the soil in troops. Serfage, homelessness and demoralisation soon disfigured the peasants with all the vices of the cities. In the gang as in the factory families cannot exist. The mother who is labouring in the field must abandon her children.

"Children who enter at a very early age under a stranger's roof in the capacity of servants cannot well receive a literary education. It is to very little purpose, so far as they are concerned, that Government crowds the country with gratuitous schools, in which

the science of teaching is carried to the acme of perfection. Such largesses of civilisation must appear a mockery to the labourer's little son, who, as soon as he is six years of age, is plunged, clappers in hand, into the midst of vast and lonesome fields, where for eightpence or a shilling a week he claps and clamours to scare away the birds from devouring the seed or rising grain. At ten he is busy in herding the sheep or watering the cattle, and at fourteen he is a farmer's boy, and mingles and toils among the full-grown men. When the poorhouse is entered by a pauper family the law empowers the guardians to tear the children from their parents and put them out as apprentices (so soon as they are nine) without consulting the inclination of either child or parent, precisely as among negroes."

Here we see the contrast between the Roman system and the English. Even were it otherwise, is the depressed condition of a peasantry a proof of bad Government? Will the Government of this country—in England or in Ireland—abide the test? The other day the *Times* thus described the condition of the English peasantry :

"The wages of an agricultural labourer in Wiltshire are 7s. 6l. per week, out of which he has to support his family and pay 1s. a week for house-rent. Such a family, one would think, is placed under great temptation to beg and to steal. Even in Norfolk, which is more advanced in cultivation than Wiltshire, the county of the large-minded and patriotic Coke, that great pioneer in rural improvements, wages are only 8s. and 9s. a week. This is certainly most inadequate to the wants of a family, and I believe is also impolitic as regards the employer; for it is unreasonable to expect that a man existing on the borders of starvation can be possessed of strength, energy, and spirit to perform a good day's work, or that his children can be brought up in health and vigour.

"A striking example of the inefficiency of such labourers was found not many years ago, when a near relative of mine, who has large sums through his hands in superintending works of 'land improvement,' was brought into communication with parties in the southern counties who complained of want of employment and low wages among their peasantry, which led to his offering to give work to 100 of them, if they could find their way to this county with tools for draining, at which men were making from 17s. to 21s. per week at piece-work, according to their capacity and application.

"Some benevolent persons supplied a party of men with money for their journey and the purchase of tools. The poor men came, so ignorant as not to know whether they could reach Northumberland without crossing the sea. They were lodged and set to work, but proved to be so wanting in method and in power, that few of them

could make more than half the wages which the men of the country gained. The experiment failed, and ended by their disappearing gradually in poverty and disappointment. It is therefore to be questioned whether, however low the rate of wages may be in some counties, the price of labour is actually less than in this. With men so ill fed, and children reared in such poverty, the race must become physically and mentally deteriorated....Men will not ripen on 8s. a week for the support of a family. If such a system lasts, the succeeding generations must dwindle and decay."

So writes a landowner in Northumberland. So writes one of the North and the East of England. All under lay rule, and English rule. Is it owing to it?

What of the South? Let us read again in the Times:

"In passing from Andover to Salisbury, I found the wages there to be 8s. only, and in one village many men were out of employ; the population being under 600, with an area of nearly 5,000 acres. The roads were in a wretched state, and not one man employed on them. As to the possession of a pig (much less the fattening of one), that was quite out of the question, excepting in a very few instances. In the adjoining village wages were the same; population under 1,000; acreage, over 7,000. Many men would have been out of work but for a temporary employment, which would last only a week longer. Here the roads were deplorable, and no one employed on them.

"I passed on to Winterslow Hut, a solitary roadside inn, six miles from Salisbury, and took a survey of one of the most miserable villages in the kingdom—viz., Winterslow. Here I found wages 7s. and 8s., with many men out of employ.

"Here the property belongs chiefly to Lord Holland and St. John's College, Oxford. The dwellings or huts of the labourers were most miserable, many of them inhabited by large families, and containing only two small rooms; I think I never saw anything more Irish-cabin-like in any part of the sister kingdom. I looked in vain for the pig, and thought how absurd to talk of the butcher's cart calling to leave a joint or a piece of meat at such places. Why, Sir, these wretched looking people don't taste meat more than two or three times a year.

"Very many of these wild-looking people live by truffling and poaching, in the absence of farmers' employment, as the adjoining woods of Mr. Baring, I was told, could bear witness. I think I never saw such wretched roads, and I saw no persons employed on them.

"By what I saw in this village I was confirmed in my opinion of the necessity of Government appointing some officer to look after these matters.

"On the east side of Salisbury, in all the villages in this direction, wages were the same."



So much for England, and the condition of her people. Will any one who has been in Italy pretend that it is so in the Papal States? Let any one read the work of M. de Courcelles.

But what of the Campagna, that hackneyed topic of declamation against the Papal Government? We have in a former Number shown the fallacy of this charge, and our contemporary the *Tablet* well treated it in a review of a French work on the subject.

“What English writer is there, from Macaulay to the *Times* correspondent, who has not grown eloquent in denouncing the idleness and apathy of the Romans concerning the Campagna, whose poisonous breath spreads desolation to the very gates of the Eternal city?

“Poor squatters of a day in some Roman hotel, they decide the question with an assurance which, to say the least is astonishing. Were they capable of studying the subject they might receive some important information from a distinguished writer (M. Gerbet) who, as economist and administrator, has made the most profound studies on the Roman Campagna whilst holding the position of Prefect of the Tiber during the French occupation of Rome:—

“‘So trifling a portion of the Campagna under cultivation seems at first view to justify the reproaches of idleness so unsparingly heaped on the Romans: but when at the first rains of October we behold those immense plains clothed with verdure, and, instead of parched grass, presenting a delicious pasture to innumerable flocks—when we behold autumn and winter clothed in all the freshness of spring, we can then understand why the Romans are content with so simple a mode of cultivation. What people receiving from bounteous nature such spontaneous and abundant produce would not be inclined to enjoy it without seeking after a cultivation richer, perhaps, but equally more uncertain?’

“If the advantages derivable from another system of cultivation be doubtful, there can be little doubt, it may be said, of the sad effects of its insalubrity on the population, which is thinly scattered over these immense prairies. Very true. But though the Popes have felt the full force of this objection, all their efforts to introduce agriculture, increase the population, and purify, by draining, the Campagna, have failed through the jealousy of foreign powers, the poverty of the government, and the opposition of the great proprietors who own the greatest portion of the Campagna, and who are anxious to maintain the pasture system, which dates from the Roman empire.

“Pius VII., the wisdom of whose regulations have been highly praised, by the writer already quoted, made great exertions to favour the triple progress of cultivation, population, and drainage.



Leo XII. established the basis of a vast organization for the same purpose. He endeavoured to transport a population of 100,000 into the Campagna, to be divided into 100 villages. Having established these, he would have compelled the landlords to give up their farms to a company on long leases, guaranteeing them their rents. The opposition on the part of the proprietors would have been easily overcome if the plan had not been frustrated by foreign influences. As no one could dream of depopulating a rich and fertile portion of a country, to populate a marshy and barren part, it was necessary to invite a voluntary emigration from Catholic countries. This would have removed all difficulties, but the intervention of diplomatic jealousy prevented the execution of this admirable and salutary enterprise.

“Had the Pope succeeded, the English press would doubtless abuse him for violating rights of property, and the proprietors would have received the warmest sympathy from the entire landocracy of Britain, and they would be venerated as martyrs in Ireland by the men who have converted whole districts into sheepwalks, driven the ploughshare over the cabins of the peasant, and built their demesne walls with the hearthstones of the poor man’s home.”

This leads us to another observation, on a point which has strangely escaped attention as connected with the charges against the Papal Government; we mean the character of the Roman nobility. It is always assumed that if there is want of progress or improvement, it is owing to the *ecclesiastical* elements. Now that quite overlooks the character of the aristocracy in the Papal States. Yet all authorities concur in representing their character as very weak and devoid of energy. Protestant writers, speaking of the Roman States in the fifteenth, sixteenth, and seventeenth centuries, do not describe the Papal Government as weak, but as having to encounter great obstacles in the imbecility of the nobility. Thus Spalding says: “the higher classes everywhere mocked the edict of Clement X., the design of which was to favour commerce, and they necessarily resisted attempts like those of Innocent XII. to suppress or limit their manorial jurisdiction.” No one ever was heard to question the ability of Sixtus or Julius and the many great Pontiffs who raised Rome’s prosperity to the greatest height. It cannot therefore be in the Papal nature of the Government that the reason of a change is to be found. And writers most hostile to the Papacy deride the Roman aristocracy. For instance M. About speaks of them with scorn.

“Almost all practise the virtues of charity without much discrimination out of pride, habit, or weakness, because they are afraid of saying no. They are not mischievous—they are too good. I must stop, for I am afraid of being carried away by the enumeration of their virtues.”

The aristocratic youth of modern Rome appear, if M. About's account be correct, not to have the manly virtues of their ancestors.

“Such conduct is exemplary, and cannot be too highly praised. But talking dolls that say ‘pa’ and ‘ma’ have no vices either.”

We know what would be said by the assailants of the Holy See, viz., that to its baleful influence is to be ascribed the decline in the character of the Roman aristocracy. But how is it then that they explain with what vigour the Papal rule triumphed over the proud aristocracy which for centuries had disturbed Rome? Why is it that the Roman nobles were reduced to submission, and, deprived by the Popes of their once favourite pastime of rapine—sunk into insignificance? The same system of *religion* and of *rule* applies generally to all. Why have the ecclesiastics all the energy and the nobility sunk in apathy? What says the *Times*:

“The wealthy nobility have, however, hung back; their fears have been stronger than their wishes, and I can only mention the names of two who have come forward openly to subscribe, the Duke Cesariui and the Prince Gabriele. Two others, whose names I suppress, have given largely, though secretly. By far the great majority, though called on specially last week, have refused, alleging the influence of the priesthood and the persecution to which they were subjected for having taken a part in 1848. After the demonstrations of Easter Sunday those men were ready enough with promises to open their purses.”

The *Times* correspondent tells us that “they wrap themselves up in their selfish isolation.” And he no less than the *Tablet* associates them with the want of agricultural improvement.

“As the Roman nobility hold themselves so distinct from the nation, it is well to ask who they are, and what they have done for the public interest. I am told that the vast possessions which form the table land about Rome and other parts of the country are held by about 93 proprietors; of these 20 or 30 may be ecclesiastical bodies. These lands, as a rule, are let to *mercanti di campagna* on leases of nine years, and are generally employed for the purposes

of grazing. 'Indeed,' said one person to me, 'a condition of the lease is that no improvements shall be made.' This is probably an unfair mode of describing certain conditions by their results, for the fact is, I believe, that agriculture is discouraged, or not encouraged, that a foolish apprehension exists of exhausting the ground and, as consequences, the resources of the land are wasted, and malaria, that curse of the Campagna, is perpetuated. 'Such are the benefits,' said the same person, 'that we derive from the Roman princes, and now, as at all other grand crises, they refuse to join us.' "

The same idea of the Roman nobility is given us by the Catholic papers, the *Tablet* or *Register*. Thus at one time we read :

"We hear of additional quarters for troops being demanded, and the Carmelite Convent and the Teresian nuns are ordered to surrender those cells for barracks. People naturally inquire why those huge palaces of a pauperized nobility be not preferred, as the foreign legions are here to do the work of a degenerate aristocracy, who fiddle when Rome's on fire. Surveying their past conduct and present apathy, one recalls O'Connell's favourite quotation as not inapplicable to them. 'Slaves! nay, the bondsmen e'en of slaves,—and callous save to crime.' "

Again :

"We have abstained from all notice of the many rumours in circulation concerning the policy of Government here. One thing must be admitted, on the authority of '48 and personal history, that the reigning Pontiff would do anything to benefit his people. But who would support him—*Quem vocet divum populus ruentis imperi rebus?* Roman counsel and Roman valour are not of heritage amongst the Patricians, and the *gens purpurea* of Churchmen who now administer affairs have no competition. If it be true, as is rumoured, that notwithstanding the disastrous results of former attempts, His Holiness is still willing to admit the secular participation in government, to whom can he turn—in the lifetime of those tried and found wanting?"

This then would be a sufficient reason for the condition of the lay element in the Papal Government, and would also account for some want of progress or improvement, if any such could barely be predicated of that Government. For no Government can be independent of the cooperation of the higher classes. We never hear of the Roman aristocracy in matters of internal improvement: for which the Popes have always shown the greatest zeal. This is not more nor less the case with

our present Holy Father than any of his predecessors. Thus in the admirable accounts given in the *Register* of his tour through his dominions, we read :

“ During his stay at Ferrara the Pope did not limit his visits to the Seminary, the Chambers, and the convents, but he also visited the Hospital, the University, the gallery of pictures, the *Agrarian institute, the manufactories, and everything that may tend to the material interests of the people.*

“ The Pope also went to a cattle show, in order to encourage agriculture ; and he visited the works for draining the fields in the immediate neighbourhood of Ferrara. On the last day of his *séjour* he went as far as Lagoscaro to see the Po, and to encourage by his presence the works that are going on there.

“ The *Times*, in a leading article says, that the Pope spends his whole time in visiting convents and religious establishments, whereas he neglects the material improvement of his States. This assertion is *totally false*, as during this journey he has made the visit of the convents quite subordinate to his other duties. His time has been chiefly occupied in giving audiences, private as well as public, and hearing what everybody has to say about *their local interests*, not to say anything of the *innumerable establishments or institutions for material improvements which he has visited.*

“ But even the religious houses he has entered are means of improving the social state of his subjects. At Ferrara the Pope visited the vast College of the Jesuits. What do they there ? They instruct all the youth of the city, and besides have in their convent a large chapel and hall in which every Sunday the tradesmen and artizans of Ferrara congregate. At Ferrara the Pope visited many of the convents, but in them were educated the mothers of the future generations of all classes. The last evening he spent in Ferrara he visited a vast night-school, frequented by the tradesmen of the city when they have done their work. To these he made an address which touched the hearts of all who heard him, so full was it of unction and true Christian eloquence. In a word, at Ferrara there are institutes for the material and spiritual benefit of every class of society. Most of them the Holy Father visited, and wherever he went imparted to them words of consolation and his Apostolical Benediction.”

This is quite in accordance with what we read of the Popes in times past : whether we take up the works of Roscoe and Ranke, or the more recent works of Rayneval or Maguire. Who does not remember the labours of the Popes in improving Rome, and undertaking great works in the Papal States : draining the Pontine Marshes, or establishing railways ? Not long since we read :

“ The *Giornale di Roma* states that the railways of the Pontifi-

cal dominions *fixed* at that moment the *serious attention of the Pope*. The construction of the line between Rome and the Neapolitan frontier was *prosecuted with much activity*."

We have shown that as to any alleged impoverishment of the Papal States, the unscrupulous spoliations to which they have been subjected over and over again in modern times, and even within living memory, would amply account for any degree of depression, and shew it to be no evidence of misgovernment.

If we would find an example of such impoverishment and depression of a people as a government are responsible for, let us look at India. The other day the *Times* correspondent, in a fit of candour, or an incautious lapse into truthfulness, wrote thus:

"It would be injudicious for a mere wayfarer in any country to lay the misery and wretchedness of the people he met on the road at the door of the government and institutions under which they lived. Indeed, he might not be justified till he knew something of the internal condition of the country, in supposing the people were miserable and wretched merely because they looked so. But *quantum valeant*, external impressions and the evidence of the eye are not in general false and untrustworthy. And I must say that, having had some experience of the poorest parts of the world, and of all sorts and conditions of men, I have never beheld a population so abjectly poor in aspect and clothing as that I have observed in the fields or on the road. The dirty, squalid, emaciated and diseased creatures whom I have met in this portion of our dominions form unpleasant contrasts to the stout comfortable looking peasantry of the ex-kingdom of Oude. Far be it from me to assert that this startling difference is attributable to the government of the late East India Company, or to that of the late kingdom of Oude one way or another; but that it exists is as plain as any material subject of ocular demonstration can be. The country indeed is apparently poor, but it is less cultivated than any part of Oude I have been in, and yet does not seem to be quite beyond the reach of improvement. Such agriculture as comes under notice is very rude, and the aspect of the country instead of the wide stretch of corn and grain and pulse from the centre to the horizon, presents but scanty patches of cultivation just now."

All this, mind, in a country which has been under our sway for a century; and as to which we have vaunted the good effects of our rule, and have in parliament and the press proudly challenged the admiration of Europe.

"Why should we suffer magnificent tanks to be filled up by

crumbling walls, serais to rot, and roadside trees to perish? The first thing which struck me after leaving Calcutta on my first arrival in India was the general decay of which I have spoken. At first I attributed it to the ravages of war, but closer observation and more extended researches led me to the conclusion that it is a condition of India independent of the mutiny and its results. Our orderly cantonments, our splendid stations, our rising cities, are not for the people, and serve but to mock the fading splendour of the best portions of the neighbouring native towns, from which we are apart in our residences as in our lives. It is scarcely possible that those cities were in ruins when they were built. Certainly, with the exception of the Grand Trunk Road, that *cheval de bataille* on which every East India director rode triumphantly through every Indian debate, there has been nothing done to develop their resources or to arrest their ruin, to promote or revive trade by opening good thoroughfares. Shall I tell you a truth? Well, then, it is a fact, *so far as my observation goes*, that in no part of the late Company's dominions in which I have been are the roads and small bridges nearly so good or so numerous as in the ill-governed mismanaged, miserable kingdom of Oude.

"All our talk about the mischief of caste and the blessings of civilization—nay, all our efforts to remove the one and introduce the other will have little effect till the material condition of the people is improved, and trade and commerce and agriculture are developed. They do not understand the nature of the benefits which accrue to them by working for a man who has come to India to make a fortune out of the soil, and who goes out of India with the money drawn from the soil to spend it in his native land."

Now here we see the "Times" correspondent distinctly ascribes the "general decay" of India to our rule. We have had it all our own way. No foreign invaders have been spoliating the country again and again; all the confiscations have been our own; all the contributions levied have been for ourselves. How far otherwise has it been with the Papal States, which have been invaded, ravaged, and plundered, over and over again within the last century,—we might almost say within the last half century. And yet the most virulent assailants of Papal rule cannot venture to talk of anything like "decay," at least with any semblance of truth. The utmost that they can pretend is, that such vast sums are not expended in material improvements as in other and wealthier states; that manufactures are not so active, or commerce so prosperous as they have been in ages past. But that they have been in ages past, in the Papal States above all, is sufficient evidence that it cannot be owing to



the Papal rule that things are not so still. And when we find that the Papal States have for two centuries been subject to foreign invasions and intestine disturbances caused by foreign machinations, it is unreasonable to charge upon the government its misfortunes as its faults. It is too monstrous to plunder a man and then reproach him with poverty; but in a wealthy government like ours, the low wages of its inferior servants, contrasted with the enormous salaries of the higher officials, is a just reproach. The charges made on this head, then, recoil on ourselves, especially as any one at all acquainted with our customs or excise, knows that the abuses there prevailing are the grossest that can be conceived, and seems to resist all efforts to dislodge them—at least all the efforts that are made, and many have been made—founded on many commissions or “committees” of inquiry. It would, probably, be observed in answer to all this, no government can prevent abuses. That may be true, at all events, of any government not powerful and wealthy, and perfectly master of its actions. But if it be true, why has not the Papal Government the benefit of it? There never was a government more entitled to it.

It was lately said in parliament:—

“It is bad for the nation that this House, which has so much business to transact on the part of this country and our vast empire, should be perpetually engaged in constitutional and organic discussions. Granted all our strength—and I believe no assembly in the world transacts business to the extent which this House does—granted all our strength and earnestness, such is the vastness of our concerns, the accumulation of our territories, such the diversity of the interests of the subjects of the Queen in different portions of the globe, that we cannot keep abreast of that mass of business; it is continually falling into arrear. Constantly, in one portion of the empire or another, in one department of public business or another, we find there is such a failure to discharge the full duties of legislation as is most unfortunate and injurious, and which would be nothing less than disgraceful were it not that the failure does not arise from weakness or unwillingness on the part of this House, but because the demands of the British empire surpass and transcend the powers of any assembly. Do what you will the wave of public business will overtake you.”

There is truth in this. But it applies in an infinitely greater degree to the Papal Government. For although as the territorial interests entrusted to it are not immense, yet the spiritual interests over which the Pontiff has charge



are immeasurably the vastest and most momentous that could possibly be confided to any human authority. And although we are well aware that the ready answer will be, “the less reason why he should be incumbered with state affairs:” that was settled a thousand years ago, when it was found necessary that the Pope should have a territory, in order to ensure his freedom and independence of action. We are not now vindicating the existence of the Papal dominion, but its exercise; and we are claiming for it that amount of indulgence which the proud and powerful British government would be obliged to ask for itself. And the argument is, not merely that there are abuses in this country, but that there are infinitely more abuses in this country than are even pretended to be in Rome, and therefore that the mere existence of abuses does not show that a government is essentially bad, still less that it is essentially the worst.

The Papal Government is not only not indifferent to, but is carefully solicitous of the interests of commerce and manufactures in its dominions. A few years ago Cardinal Antonelli concluded with our government a commercial treaty, which showed as much liberality and thorough knowledge of the subject, as anyone ever exhibited; and as this may be, to some, a kind of curiosity, we give a portion of it.

“Declarations exchanged between the Governments of Great Britain and of the Roman States for securing National Treatment to the Vessels and Commerce of the one Country in the Ports of the other.

#### DECLARATION.

“The undersigned, her Britannic Majesty’s Charge d’ Affaires at the court of Tuscany, having received from his Eminence the Cardinal Antonelli, Secretary of State to His Holiness Pope Pius IX., the assurance that no other or higher duties or charges are levied in the ports of the Papal States on British vessels than are payable on national vessels, or on goods imported or exported in British vessels than are payable on the like goods imported or exported in national vessels, has received the commands of her Majesty to declare:—

“1. That no duties of tonnage, harbour, lighthouse, pilotage, quarantine, or other similar or corresponding duties, of whatever nature or under whatever denomination, levied in the name or for the profit of the government, public functionaries, corporations, or establishments of whatever kind, shall be imposed in British ports

upon Papal vessels, from whatever port or place arriving, which shall not be equally imposed in the like cases on national vessels ; and that no duty, charge, restriction, or prohibition shall be imposed upon, or any drawback, bounty, exemption, or allowance withheld from, goods imported into or exported from British ports in Papal vessels, which shall not be equally imposed upon or withheld from such goods, when so imported or exported in national vessels.

“ 2. That no other or higher duties shall be imposed on the importation into the dominions of her Britannic Majesty of any article the growth, produce, or manufacture of the Papal States, than are or shall be payable on the like article, being the growth, produce, or manufacture of any other foreign country. That no other or higher duties or charges shall be imposed in the British dominions on the exportation of any article to the Papal States, than such as are or may be payable on the exportation of the like article to any other foreign country ; and that no prohibition shall be imposed upon the importation of any article the growth, produce, or manufacture of the Papal States into the British dominions, or upon the exportation of any article from the British dominions to the Papal States, unless such prohibition shall extend to all other nations.

“ 3. That Papal vessels shall be at liberty to import into British ports any article legally importable, and to export from British ports any article legally exportable, on payment of the same duties, and with a right to the same bounties and drawbacks, as are or may be payable or allowable in respect of the same articles if imported or exported in national vessels.

“ 4. That all vessels which, according to the laws of the Papal States are to be deemed Papal vessels, shall, for the purposes of this declaration, be deemed Papal vessels.

“ 5. That the foregoing stipulations shall not apply to the coasting trade, which is reserved exclusively to national vessels.

“ 6. That the foregoing concessions are granted on condition of a perfect and entire reciprocity in favour of British vessels in the ports of the Papal States. They shall come into operation from and after the date of the present declaration, and shall remain in force for seven years, and further until the expiration of twelve months after notice shall have been given by the British Government, or by the Papal government, for terminating such reciprocal arrangement.

“ Done at Florence, the 17th day of November, 1853.

(L.S.)

P. CAMPBELL SCARLETT.

L.S.)

G. CARD. ANTONELLI.”

Well, did any Government ever show a greater zeal for the *commercial* interests of its subjects? And what more can the best of Governments do than do its best?

With regard generally to the question of good government there were some good remarks in the "*Civiltà Cattolica*."

"As long as the abuses which can be met with in a government in the practice of its administration are thus recorded in general, there is no need of giving any other answer than such a general one also, as that there are abuses to be met with everywhere; and far from embarking into the impossible undertaking of showing that there are none, we shall wait until others point out the part of the world where none are to be found. We are but too glad even not to feel called on to enter into the discussion as to whether, in these States, they are much less numerous, and grievous than elsewhere, as some authors have undertaken to show, and have apparently succeeded to a great extent. We need not consider such a point, since critics attack almost exclusively the governing and administrative institutions; doing exactly the reverse of what the Romans are wont to do, who, when they grumble—which from ancient usage they indulge in abundantly—they always quarrel with the men, and scarcely ever with the institutions. Now, as regards these latter, from the way in which critics speak of them, one would think that they consider the Pontifical States as a semi-barbarous country nearly in a wild state. Government administration, as the first want of any well-ordered society, has been implanted in Rome, and has been constantly improved there, as far back as the time in which France was not even in a condition to have any thing like it; and many European nations sent to Rome purposely to learn it.

"Men of this kind are not obliged, certainly, to study the Roman administration; but the dictates of common sense ought to induce them to suppose it possible that, beyond their own country, there may exist some good in this world; so that the fact of not being French or English should not be the equivalent of good for nothing. In any case, if they wished to speak of it, they ought in all justice to examine it; and perhaps it would have sufficed them to look upon it as foreigners. For assuredly any one who stops for a short time in Rome, or visits the tract of country which extends from Terracina to Ferrara, from Ancona to Civita Vecchia, must convince himself with his own eyes that, with regard to civil order, the protection of rights, the judging of legal questions, the raising taxes, the punishment of offences, public comfort, the supply of wants, the instruction of youth, and whatever else constitutes a well-ordered administration, there is a constant action of the kind at work, as in all other civilised countries. And if, on some special point, it may seem to any one that things go on rather slowly or circuitously, on others of much more importance and substantial effect people are much better off than in any other country; as, for example, with regard to Christian instruction, which is amply dif-

fused, the assistance provided for every kind of want ; and the plague of pauperism or absolute destitution is not known there even by name. Finally, besides many excellent things retained from ancient times, there is scarcely any new device of public weal which can be thought of, which has not been more or less adopted in that country, with the exception however of the free action of usury, prisons for beggars, and government licenses for prostitutes."

When Farini came to sum up his charges against the Papal administration, at what he represents as its worst era, the conclusion of the last Pontificate (Gregory XVI.), it is remarkable how little there is in them, and how far they are from making out a case of bad government. They either resolve themselves into this, that the Papal Government is bad because it is Papal, which is an objection falsified by all history, opposed to Catholic theology, and *too late* by at least ten centuries; or they are mere vague expressions of aversion designed to veil the desire to subvert the Papacy; or they are mere *instances* of evil, which only show the inability of any government to prevent abuses, and of which, for every one found in Romagna we can find a hundred in England: or lastly, if there is anything real and substantial in the charges they will be found on close examination to resolve themselves into charges against *Austria*, or the effects of past savage oppression and present intervention or armed occupation. It is remarkable, we repeat, how little there is which he has to say against the Papal Government itself.

Thus he begins, "commerce was limited, there was no extensive branch of industry," &c. Well, we doubt the fact; but if it be so, can any one in the face of history pretend that this could be in consequence of Papal Government? And on the other hand is it not just the consequence which might result from such oppressions and confiscations as those of the first Napoleon, and the unsettlement of the country produced by the constant machinations of secret societies, and the irritation occasioned by armed occupation?

"There are no statistics and all the departments were badly arranged. The taxes and the duties were heavy and ill allotted *because they fell almost exclusively on property.*"

That is, direct instead of indirect taxation; the very principle which has been for many years past to a great degree followed in this country by the ablest statesmen,

and is advocated by some as the only true principle of taxation. It is that upon which we maintain our income tax, which no doubt is disagreeable, but which grave political economists uphold. But whether they be right or wrong, fancy making this a charge of misgovernment!

“Taxes heavy!” Ask our people! “Ill allotted.” How of our own?

“The growth of public wealth was thwarted by indifferent and foolish laws; by the prohibition of railways and by reason that the great estates could so rarely change hands.”

The latter being just the objection which Ahab entertained to Naboth, that he would not part with his garden. Just the same objection was felt by our rapacious barons in the middle ages to the monastic orders; whose finely managed lands did not “change hands,” greatly to the delight of the poor tenants who preferred the crozier to the lance. What there is not absurd in this as in every charge is simply false. The Pontiff could not patronize railways when short of money: that he was so, was surely the fault of those who robbed him. The present Pope has patronized railways; just as Pius VI. drained the Pontine Marshes. “Codes there were none.” An arrant untruth, the Roman codes being the best in the world, and the Justinian the model of all others. And *we have none!*

“The public debt was between 37 and 38 millions of *crowns*; there was an annual deficit of half a million of *crowns*; no audits; and no accounts rendered by the financial administration.”

A miserable equivocation. “No accounts rendered.” To *whom*? Does he mean to convey that there are none? Does he think any men of sense will believe that such statesmen as Consalvi or Antonelli would allow wholesale embezzling of public money, and that the Cardinal Legate, whose province is finance, would call for *no account!*

“The Papal state expends on public functionaries 1,366,000 *crowns* per annum: of these about 5000 are laymen and about 300 churchmen.”

So much for the charge, if it be one, that the Papal Government does not employ laymen. It will be seen that it is quite consistent with the history of Ranke and is confirmed by the high authority of the learned Dr.

Bowyer, who is a complete master of the subject, and whose well-timed Letters upon it entitle him to the gratitude of good Catholics and the respect of all lovers of truth.

It is true that Farini adds that "all the highest honours and ranks are reserved for the clerical caste and all the principal functions and authority of Government." But what is this but saying that the Government is Papal and ecclesiastical? And whether this is necessarily an evil depends upon the conduct of the Government, as to which all Farini's facts and the voice of history for a thousand years are against him.

The charges against the Papal Government seem, after all, to resolve themselves either into repetitions of the complaints of the revolutionists of 1851, which as we have seen really tend to subvert the Papal Government altogether, or into vague generalities intended to veil and disguise those designs, or into matters so insignificant as to be quite beside the question of good or bad government.

To meet this latter class of charges is perhaps more easy, at least for any one at all acquainted with our own laws and institutions, than those vague generalities which may mean anything or nothing. There are indeed petty idle stories, made up of anonymous hearsay, which it is impossible to meet in any other way than by producing cases far more definite from our own country, and asking if *they* are deemed proofs of misgovernment in England? If not, what becomes of these paltry charges against Rome?

Our contemporary the *Register* remarked, dealing with the article in the *Quarterly*,

"We cannot but wonder that the writer, dealing with imputations of the most serious character, should not have been more careful to furnish us with the means of verifying his assertion. We look in vain for any indication of the source from which his numerous and brilliant anecdotes are derived; nor do they generally exhibit any internal marks which may enable us to refer them to their context. 'A youth of eighteen' *may* have gone to prison for a few silly words. 'A professor of music' *may* have been punished for breaking the temporary-residence laws; 'a lady' *may* have suffered this piece of injustice, and 'a gentleman' that, and 'a person' both of them together; but one would like to have something more tangible to go upon in a great political question,

than gossiping evidence, vaguely expressed, and presented to us by a man in a mask. Now and then, it is true, we are confronted with authorities—*e. g.* the Piedmontese journals are adduced; not the journals which would probably, or might possibly, be impartial; but Count Cavour's own special personal organ—that one particular newspaper which, beyond any other in Europe, has a direct interest in vilifying the Papal Government."

But this is not all. *Assuming* the truth of *all* these anonymous hearsay stories, what do they amount to? Do they make out a case of bad government? If they do then has England infinitely the worst government under the sun. For assuredly, for one such instance of abuse in the Papal States we shall find a hundred in this country. Isolated instances of misconduct do not prove misgovernment. There must be something wrong in the laws, the institutions or the ordinary and regular administration of affairs. Now nothing of this kind is shown by mere instances such as are alluded to, even if they were not, as they usually are, cock and bull stories. If they are proofs of bad government, then we repeat, England is the worst governed country in the world, for in none can a greater number of grosser abuses be found. And this is really the only way of meeting a system of vituperation so vague that it escapes refutation, so violent that it defies contradiction. The argument is one of comparison.

The Papal Government, it is said, is 'weak.' Well, in a certain sense this must be always true. The Papal States can never be in a material sense powerful. And as regards its own subjects it must necessarily be mild, and averse to extreme measures. This is no doubt taken advantage of by the bad: and if the Papal Government dealt as summarily with its disturbers as the French, or as severely as the British, perhaps it would be less molested. And such is the perversity of its assailants, that when it does, for the sake of others, act with rigour, it is sure to be reviled. Thus, during Lent, the *Times* correspondent wrote thus:

"As many of the retrogradist papers have represented the extreme quietude of Rome during the recent Carnival as a proof of the contentment of the people and of the vigilance of the police, I think it worth while to return to the subject, and note some of those facts which ooze out generally some little time after their occurrence. In the first place, all of any political figure—all known for decided liberal views—retired from the scene or remained perfectly



quiet ; it is *their policy at this moment to maintain the utmost order*, and it is to this resolution that is to be attributed in a great measure the tranquillity which prevailed during the recent festive season."

Observe the confession, that the 'liberal' or 'progressive' class have the power, and sometimes the will, to disturb the peace.

"Again, the Government two or three days before the commencement of the *festà* swept off and imprisoned no fewer than 270 *precettati*. The *precettato* is a species of mongrel—half-beggar, half-thief—well known to the police, enjoying by its '*precetto*' certain indulgences, and placed by it under certain restrictions. On the eve of the great fêtes they disappear ; on their termination they make their appearance and renew their professional engagements. So have they done since the beginning of Lent, and many instances of their activity have been enumerated to me—of people being stopped on their staircases and robbed with a knife at their throats, for your Roman plays a more ferocious game than your Neapolitan. These cases show that a great portion of the boasted order which was observed during the Carnival must be attributed to the temporary removal of these elements of disorder."

Very good. And in what other way can order be produced, save by the removal of such as would disturb it? And was the writer aware that by the English law suspected persons can be summarily arrested, even for vagrancy? If he was he certainly must have thought that his readers did not know of it, or he would not have ventured thus to insinuate against the Papal Government an imputation of taking arbitrary measures even for the protection of life and property. We may judge how it would be reproached for adopting similar measures to secure tranquillity. Yet, because it does not, it is sneered at as "weak."

"The career of arms," says Farini, in his book, "is closed to the Roman youth." "The Italian youth have no career," says the Turin correspondent of the *Times*, probably Farini himself. Why have not the Roman youth a career of arms? Why do they not arm in defence of their sovereign and of Italy? Not long ago the *Times* correspondent mentioned that a private circular had been sent round to the bishops to urge them to collect men to form two other legions. And he gave a copy of the address which has been published by the Bishop of Cagli and Pergola consequent on the circular alluded to. He gave it to several. "It is a curiosity," he says, "and

therefore I translate and send it. I understand, however, that no response has been made to the addresses of the episcopal body, though a bounty of 60 scudi has been offered to every man entering the service. The following is the address above alluded to :—

“Bonifazio Cajano, by the grace of God and of the Holy Apostolic See, Bishop of Cagli and Pergola, to the beloved youth of both dioceses,—

“Among the exclusive rights of Royal Majesty which are called permanent, sanctioned even by the rights of nations, the foremost one is that of providing all those means which tend to obtain or preserve the internal and external security of the empire ; hence the obvious right of publishing laws imposing tribute, and invoking, when necessary, either as a prevention or as a remedy of evils which threaten, not only the good sense, and the counsel, and the property of subjects, but also their arms for the defence and support of the country. The existence of this, according to the testimony of those who have written and treated of the law of nature and of nations, depends on the uniformity of the will of the people with that of the Sovereign. Hence it follows that good citizens are not only bound to fidelity, and affection, and love—to respect, and voluntary obedience towards the person of the Prince, which is called sacred—to his laws and precepts, but to interpret and anticipate his authoritative desires, to listen to them, to speak of them always with honour, to adhere to him only, as respectful children to their most gracious father. How infinitely greater are those theories, universal indeed and belonging to every country, when applied to us, who have the fortune and the privilege of possessing a Pontiff for our august Sovereign ? And, in fact, it is he who, from the first Catholic throne in the world, addresses you this day, through me, not as he might a command, beloved youth, but an honourable invitation, and *offers you his uniform, his arms, and the privilege to enter on a career glorious and new to you.* And this is not to hasten to join armies, to march, and expose your lives in the hostile fields of other nations, but to remain thus nobly armed as in a family, and to surround his throne—not to encounter distant enemies, but to guard against them, or repress them, if evil-minded persons in the interior of the country should stir up excitement, or dare to approach our pacific high priest from distant shores. To a King and incomparable father who graciously invites, who of his sons will remain indifferent or opposed ? *What excuse can be brought, or pretext to justify a refusal ?* What need has the Italian name and genius to exceed others in martial multitudes ? Has not the glory of our youth been the pride of centuries ? But, not to speak of any other merits, and to restrict its praises to our age, who does not know that the last conqueror of Europe called the Italian youth

fighting under his flag the *Legione Fulminante*? Was not that formidable regiment, Della Morte, composed of it alone, called *par excellence* by so fearful a name, not only because the dark effigy of this merciless enemy of mortals was horribly graven on the crest of these brave ones, but because, issuing on the plain when the remains of the army was routed or destroyed, the fate of the monarch or kingdom was, as it were, in their hands, who knew no alternative but victory or death? And are you not the noble sons of those great fathers, who ought never to have been born, or never to have died? This most brilliant star of the first magnitude, the Italian youth, then only suffered a shameful dimness when, under evil councils, changing its glorious and triumphant course, it attempted to elevate itself and sparkle in an horizon not its own. It permitted its arms to fall from its hands or its honoured insignia to be torn from its shoulders, and shamefully turned its back to the enemy. They went down to battle, like the improvident captains of Israel, spoken of reprovably in the 5th chapter and 1st book of Macabees, without the authoritative command of the chief of the army. Do you know why? Because not then fighting the battles of the Lord, the remorse which arose in their fervent and courageous hearts either chilled or extinguished within their bosoms the fire with which it is essentially and invariably filled. Hence it was evident that the God of Armies and of Battles was not with them, and they fought without glory or deserted with ignominy from the warlike ranks gathered together, but not disciplined. Up, then, my dear children! answer the appeal of your Sovereign. Give your names, not merely induced by the manifold advantages which that great Sovereign offers you, nor by the glory which is prepared for you—but only because he calls you—because he desires to see his uniform on you—because up to this present time he has honoured you with the tender name of ‘children.’ Henceforward he will call you his soldiers. Finally, hasten to this invitation, to show, by this eloquent fact, that you regard him as more than a father, and that you will be ready to lavish like water your blood and your lives for him.”

Here we see the profession of arms put upon the only principle on which it ever has been based by the Holy See, or can be according to the eternal laws of morality—the sacred duties of loyalty or self-defence. Never was there a more legitimate, a more laudable, a more noble appeal to the martial and loyal spirit of a people. Yet the *Times* boasts it met with no response. What closes the career of arms to the Roman youth? The foul spirit of faction, irreligion, and sedition, which makes them traitors to the best of sovereigns, and the holiest of causes.

A week or two afterwards the *Times* correspondent wrote :

“ Not many days have elapsed since I sent you an episcopal address of a most warlike character, calling on the youth of the country to rally round their Sovereign ; yet, notwithstanding the great exertions which have been made, and the high sum of 60 scudi offered to those who would engage in the service—to say nothing of the glory to be acquired by fighting under the Papal banner, scarcely a man has enrolled himself ; and the Pontifical captains who went out on this inglorious expedition are now kicking their heels at Frasinone.”

And soon after he stated that the Roman youth were deserting by hundreds to Sardinia : what for ? To help in enslaving Italy to France ; as the *Times* itself very truly puts it, its eyes having lately a little opened to French policy : seeing Louis Napoleon with 15,000 troops in possession of Tuscany. What patriotism or wisdom have the Roman youths shown in deserting their native Sovereign to support a foreign invader who comes to enslave their country ? And whose fault is it that they have no “ career ” ?

There is a great deal said, without much regard to truth or consistency, about the military arrangements of the Papal Government. It is scoffed at as servile, because it is necessarily pacific. It is at one time reviled for engaging ‘ mercenaries,’ as if we ourselves did not take the same course. At another time its native troops are reviled, as “ picked up out of the streets,” and so forth. In short it cannot please its enemies anyhow, least of all on this subject, so vital to its very existence. So it has ever been. If its Pontiffs were warlike and martial, like Julius II., they have been reviled, as unfit to rule the Church. If pacific, like Pius, they are derided as unfit to rule the state. An Urban is abused for building fortresses,—a Gregory for neglecting them. But this subject of military establishments is the last on which we should reproach the Papal Government. If the Papal troops are not formidable, at least they are not oppressive. Could we say the same of ours ? The daily records of our police courts and our criminal tribunals, attest the contrary.

It is ludicrous to see how, through ignorance of the law of the two countries, the assailants of the Roman government, whether English or Italian, blunder in the matter. The English assailant reviles the Roman law for the

want of something which is not English. The Italian assailant imputes, perhaps falsely, to the Roman government, something which he does not know exists in England. Signor Farini little knew how hard he was hitting England. He complains, most likely with little truth, that the Papal government "picks up soldiers in the streets." Why that is precisely what our government does! It is the very phrase used in Parliament to describe the process. The other day, we read in the reports of the debates of the House of Commons:

"General Codrington regretted to say that several of the recruits were a disgrace to the service of which they ought to be the honour. The *present system of recruiting was intolerably bad*. It ought to have been abolished long ago, and in these days one would have expected to meet with it only in reading old novels. To tempt a man to enter into the army by giving him a bounty of a few pounds, which he would probably spend in two days, had a most demoralizing effect on the army. In time of peace, we succeeded by this wretched means in procuring men for the army, but when a pressure came, we failed miserably in obtaining a sufficiency of good men. The same was the case with the navy. This resulted from our not paying full value for the article at the time we wanted it. He thought that the estimate of the right hon. gentleman, the member for Wiltshire, that a soldier virtually received pay to the amount of 14s. a-week, was too high. But, whether that was the amount or not which a soldier cost the country weekly, it should be recollected that a man, on entering the army, *surrendered his liberty, his health, and his life*. In past times and at present, the English agricultural labourer was the best recruit we could obtain. His strength, power of endurance, steadiness, and moral character, were the qualities required in a soldier. He did not deny that many quick and intelligent recruits were obtained from the manufacturing districts, but when *you picked up from the streets persons devoid of stamina and character*, you threw away money upon a worthless article. Those persons could not endure fatigue, and had to be carried to the hospital almost as soon as they landed on a foreign shore. He hoped that for the future, instructions would be given to the medical officers of the army to admit only such to it as were likely to be of service and not a burden to the country."

The *Times* quotes this with approval.

"With respect to recruiting, an observation of a very notable character was thrown out by General Codrington. The present system, said he, 'was intolerably bad. It ought to have been abolished long ago, and in these days one would have expect-

ed to meet with it only in reading old novels. *To tempt a man to enter into the army by giving him a bounty of a few pounds, which he would probably spend in a few days, had a most demoralizing effect on the army.* Now, the principle here expressed has been often touched upon. We cannot pretend to believe that the summary abolition of the bounty would be a very practicable or judicious measure; but it is beyond all question that in this particular feature of the bargain between the soldier and the State we retain and express the old idea, that to enlist a man is to entrap him. Why, otherwise, should we offer a payment which looks exactly like a bribe—a piece of immediate temptation, alluring a man into future service by the prospect of present indulgence? At this point, as General Codrington implied, our recruiting sergeant is still the Sergeant Kite of times past. The transaction still takes place too frequently in a publichouse or a drinking-booth, over a gallon of beer or after a day of dissipation.”

And be it observed that when we come to a case of bad government, either arguing that its constitution is essentially vicious from the abuses that exist under it; or urging that it must tend to such abuses because it is essentially vicious, (and in either view it comes to a question of fact after all,) the question is more or less one of comparison, because no human government can guard against isolated instances of evil, nor can secure its people against poverty caused by external influences. It is answerable only for its own conduct. And the test of comparison is appealed to by the assailants of Rome.

The *Times* says:

“As for Papal and Austrian misrule, what superiority does ‘AN ITALIAN’ trace in the present Government of France to that of Austria? *Has France more freedom of pen and speech than Austria? Is individual liberty better secured—is the conduct of the Government more steady, more judicious, more trustworthy?*”

So may we say as between France and the Papal States, or between the Papal States and England.

The challenge is invited, and we accept it: we accept it also as between the Papal States and Piedmont; witness the latest ordinances of France or Sardinia. First France:

“Art. 2. Whosoever shall be accused, either through publications, correspondences, or in words, of having provoked contempt for the person of His Imperial Majesty—whoever shall have blamed any act of his Government, or in any way contributed to breed disaffection against the Emperor’s Government, shall be brought before



the Court of *Police Correctionelle*, and may be fined to any amount between 200 and 2,000 francs, or imprisoned for a space of time varying between two months and two years.

“Art. 3. In case of a second offence on the part of persons so condemned, they may be *banished* either to some residence within the empire, or to the *colonies*.

“Art. 4. The laws concerning the Press shall remain unaltered ; but the Government is empowered, in a case of public interest, to purchase any paper, or periodical publication whatsoever, on granting to the proprietors an indemnity, settled either by an amicable adjustment, or by other means.”

It would be useless to dwell upon the true character of the last clause, tantamount to confiscation. Is there anything like it in Rome? No. The censorship, so abused by Farini, is far more just and mild.

Then look at Sardinia.

“The Ecclesiastics who, in the exercise of their ministry, shall pronounce at a public meeting, a speech containing the critique of the institutions and laws of the state, shall be punished by an imprisonment of from three months to two years. The penalty shall be increased to from six months to three years, if the critique be made by publications, instructions, or any other document whatever, read at public meetings or other public places. To the penalty of imprisonment may be added a fine amounting at the maximum to 2,000 livres.”

A similar law has just been passed in Belgium, and it has been clamoured for in Ireland. Well, are there any such laws in the Papal States directed against *Laymen*?

We repeat, all that is not altogether false in Farini's charges, is so vague and general, as to have no meaning short of this : the subversion of the Papal sovereignty, or urged on grounds so partial, and special as would tell with far greater force against England. Thus take the telling line, “neither town nor country secure from gangs of villains ill kept down.” Take up the *Times* of any day, and you will find some such case as this :

“Several lads from 14 to 16 years of age, were finally examined on a charge of committing an indecent and most serious assault on a young girl in the service of a lady. From the testimony of several respectable tradesmen in the vicinity, it appeared that, having treated the poor girl in a scandalous manner for some moments, they flung her to the ground with such force as not only to seriously injure her, but very nearly broke her back on the kerbstone.

“The magistrate commented in strong terms on the ruffianism and profligacy of the prisoners, and, observing that a severe *example*



*was necessary to put a stop to such outrages, sentenced them to two months hard labour each; and the other three he ordered to pay a penalty of £3 each, or in default one month's imprisonment."*

Our very *lads* are capable of such ruffianism. And this in our great metropolis, and in broad day. And the only repressive means employed is sentences of imprisonment for a month or two, while a girl has just been sent to gaol for a fortnight, because she sold combs in the street!

"The police," says Farini, "were arbitrary." Well, it may be necessary. See what he says of the Roman people, who, as he adds, although attached, as he admits, to the Pontiff,

"Are proud, uncivilized, and quarrelsome. In the provincial towns, the populace had mingled in the sects" (i. e. the secret societies) "and were daring partisans. The country people were everywhere peaceful, devoted to the head of their religion, reverent to the priesthood—only discontented at paying too much."

Could as much be said for the English people? Is this, on the whole, a picture unfavourable to the Papal government?

It is curious to see how much these accusations against the Papal Government are like cuckoo cries, mere repetitions of unmeaning generalities copied from each other, and all emanating from Turin. Thus it was with the manifesto of 1831, which was copied by Massimo d'Azeglio, so vaunted by Whiteside, so lauded and imitated by Farini. And then Farini is copied word for word by the *Times* and "our correspondent" at *Turin*. Indeed very likely our correspondent is Farini; or a clique composed of Cavour, Farini, and Massimo d'Azeglio. "To the intelligent youth," says Farini, "the career of arms is closed." "All other charges," says our correspondent, "are summed up in this, that the Italian youth has no career." Why so? there are 5000 laymen to 300 churchmen in the court service. And as to the profession of arms why is it closed? "Because," says Farini, "it is without honour or enterprise and is contaminated by foreign mercenaries." This was written before our Foreign Enlistment Act, and before Sardinian troops went to the Crimea in our pay. But why is the Pope reduced to enlist foreigners? Because the Roman youth are so contaminated by Sardinian influence as to deem it no honour to defend Christ's Vicar.

It is ludicrous to see how the *Times* in its ignorance of Italy copies Farini, and how Farini in his ignorance of England actually advances as evidences of misgovernment matters which might be multiplied a hundred fold against this country. He says, "neither town nor country is secure from gangs of villains ill-kept down." The *Times* says, speaking of the Papal Government:

"It does not keep order. Bands of robbers roam unpunished through the country. The streets of every town are infested by ruffians who make a walk after nightfall dangerous. It cannot manage the finances of the state. A heavy debt has been incurred, and there is no advantage, domestic or international, to show for it. The country is without trade or manufactures; the roads are bad; railways are only slowly travelling into existence by means of foreign capital; and a general poverty and difficulty of living weighs on the people. What do the Italians of Rome see on every side? French soldiers marching and drumming along the streets, French officers taking upon themselves a principal part in the administration of the public police."

Now here all except the last is mere declamation; either applicable to England and Rome equally; or applicable to Rome only in *consequence* of the last mentioned evil, foreign occupation, which (as we have shown) took place originally against the will of the Pontifical Government, and has been continued only in consequence of, or under the pretence of, machinations incited by English and Sardinian intrigues. Take any particular charge, and how ludicrous it becomes when contrasted with facts. "Neither town nor country secure from gangs of villains ill kept down." As to that charge how is it in England? Farini did not know. We will show how it is.

Is London or Liverpool free from outrage? Are the streets of the great metropolis perfectly safe by night or day? Are there no midnight murders? no midday assassinations? no brutal burglarious atrocities? no deeds of blood as cold-blooded as ever banditti have perpetrated in forest, in desert, on mountain or on plain? Let us just refresh our recollections as to a few incidents of London life within the last ten years. We speak not of *secret* murders; but of bold, audacious, unconcealed atrocities.

Mr. Drummond was shot down at Charing Cross, Mr. Waugh the attorney in Bedford Row, both in *broad daylight*. Even Parliament street is not safe from murder-

ous outrage. No one can have forgotten the terrible murder committed there last year on a poor watchmaker as he was closing his shutters in the evening. Bethnal Green has just furnished a similar story of brutal assault and robbery.

“A poor woman, the wife of a watchmaker and jeweller in Bethnal-green-road, with her husband, were in their shop at half-past nine at night, the prisoner entered and enquired the price of a silver watch. He offered 35s. for it but uselessly, and asked her husband to accept the latter sum. He declined to do so, and the prisoner suddenly exclaiming, ‘Then take that,’ immediately struck her husband such a heavy blow upon the crown of his head, with the butt end of a thick stick, loaded with lead and secured with cord like a life preserver, that the object of his brutality sank to the ground perfectly senseless, with the blood flowing profusely from the wound, and was confined to his bed. She screamed in terror for assistance, and the prisoner, wrenching open the door, darted rapidly into the street.”

Could anything worse happen in the Abruzzi or on the Appenines? Yet such things are so common that no one notices them. They are the *daily* material of our police reports.

Security for life and person, says Lord Broughton, that is all he asks for the poor Romans. Well, that is a comparative question; you are *perfectly* safe nowhere from men who have a taste for murder. But what are the ideas of our *own* *journalists* about security for life in this country? Let us quote one of a hundred articles we could quote on the subject from our Protestant contemporaries.

“Leaving aside, as things of a minor nature, the usual brutalities of wife-beating, which fill up the columns of our police reports, we find that *within the space of about a fortnight* a series of murders have been committed which equal in their atrocious circumstances anything which can be found in the pages of the ‘Newgate Calendar.’ The shambles cannot show a more reeking scene of blood than some of the homes of London and other towns have witnessed lately. The deliberation, the predetermination and the butcherly nature of some of these cases are too sickening to dwell upon. The metropolis contributes its quota, less in quantity by *one*, but making up in quality, that is in the hideous and utterly inhuman nature of the crime. Thus at Paddington, an ‘evil-looking’ creature named Watts, kills his wife with all the ferocious fury of an Ashantee savage braining an enemy—the demon of murder seeming to have possessed him wholly. In tracing the causes of these things, we only find that drunkeunes, as a first cause, and a gene-

ral tendency to depravity are largely displayed. One murder exhibits more of the mere wantonness of crime unaccompanied by any other definite purpose. The perpetrator is a ticket-of-leave man, whose cant and whine have moved a canting chaplain (for he can be nought else), in his behalf, and a *wretch unfit to live is loosed upon society to exact one life, and to attempt another*. The Paddington murderer exhibits an unmixed amount of furious blood-thirstiness. All are of a monstrous genus, and *how to check the progress of crime or what to do with the criminals, is the question*. Watts was found guilty of manslaughter! and this is among the very worst of the cases. He is sentenced to 14 years transportation, *which means two in the chain-gang, and a ticket of leave*; if he has the tact to hit upon the chaplain's maudlin side, can turn up his eyes, and pray with fervour, the rankness of the blasphemy will be counted in him a merit. Some of these enumerated will get off on the plea of insanity—a *plea that is now becoming a mockery and an abuse of justice*. What is to be done? Six months for wife-beating has made the vicious habit grow to a head, develop its virus to the very verge of murder, and ripen forth into a rank, luxurious fruition. That penalty, therefore, neither prevents nor punishes. The criminal laughs at the penal sentence. He knows it means nothing. He knows that there is a *diseased and mischievous philanthropy existing in society that commiserates him, that the chaplain will make him a prison pet*, and that the very magnitude of his crime will endear him to the weak-minded man who has to work out his regeneration. Transportation means nothing—literally *nothing*, since, among the great crimes lately committed, the ticket-of-leave man has been an active principal, and *he* has originally been mostly a wife-beater, and very likely a wife-slayer. It is so positively frightful to look at the horrible cases which have become *so frequent and so common*, that it becomes imperative on the part of the Government to take some step that shall, at least, satisfy the public mind that, without going so far as hanging (which, by-the-bye, is only overstepping the aim of judicial compensation) shall have the result of exacting from the criminal the full penalty of his guilt; for how to prevent murder we are at a loss to know. We think, however, that there is here a very good field for missionary enterprize, which, leaving the natives of Boorioboola to kill and eat each other in comfort, shall try what they can do with our savages at home."

Certainly the conclusion, that we should try and better our own system before we censure the laws of other countries, is sensible and practical.

Since the above, a hundred monstrous cases, not merely of horrible crime, but of *impunity* for such crime, have shocked society.

For instance, the case of Celestine Somner, who bar-

barously murdered her own child; and was pardoned! to the horror of all England: so that Lord St. Leonards mentioned it in the Lords. Then the case of Mrs. Brough, who savagely murdered her six children out of revenge, and was let off on the ridiculous pretence of insanity. But on that subject we refer to a recent article in this Review. We challenge any one to make out such a case against the criminal judicature of Rome.

At Winchester, during the late assizes, we find that Baron Watson had a *number* of poachers who had been convicted or pleaded guilty placed at the bar for sentence. He said, "year after year we read of the lives of gamekeepers and poachers being taken, or great injury done."

At York the other day not less than seven poachers were tried for murder, about twenty men having been engaged in the terrible affray, and several killed or maimed for life; we read that

"Mr. Justice Byles said that it was to be regretted that gentlemen for the sake of protecting their amusement, permitted their servants to go out heavily armed, as the gamekeepers in this case had been. In the present case one of the watchers had been left dead on the field of battle (as he might call it), the other two had been badly wounded; several of the poachers' party had been severely wounded, and one was said to have died of his wounds. This had resulted from the watchers being permitted to go out so heavily armed for the protection of hares and pheasants. He said it deliberately, and he felt it his duty to say it, that great blame attached to both parties in bringing about this lamentable result. This statement which was emphatically made, appeared to excite much sensation in court. The jury, after an absence of two hours, found a verdict of "Not Guilty" as to three, and found the other four men guilty of manslaughter."

Again, we find from the papers that a man

"Pleaded guilty, at the same assizes, to a charge of being concerned in the game-law affray at Shelford last January, in which a poacher was killed. There were sixteen or eighteen men concerned in the poaching expedition, and they all wore white badges to distinguish themselves in case of an affray. Lord Campbell, remarking on the importance of checking conflicts which were rather like civil war than an ordinary affray, sentenced the prisoner to one year's imprisonment with hard labour."

Now it is all very well to talk of the necessity for checking these terrible encounters; and the judges do their best, but so it has been for all living memory, and so

long as there is *game* so it will be: and while it is so, is it not arrant nonsense to affect to be scandalized at occasional encounters with bandits in the Papal States?

“Bands of robbers roam unpunished through the country; the streets of every town are infested by ruffians, who make a walk after nightfall dangerous, except where a French sentry is within hearing.”

This is Lord Broughton's charge.

Again as to want of security for life and property. Well, that is a comparative question. How is it in England? There are brigands in the Papal States. Well, the other day, two poachers deliberately shot dead a keeper, on his approaching them. A contemporary points out that in England twenty-seven persons are now awaiting their trial for murder. But take London as we read at random from the papers.

“A powerful fellow of 24, was charged with the following robbery:—

“The prisoner, who was in company with a woman, ran up to a lady, and violently snatched her mantle off her shoulders. She screamed and fainted, and she would have dropped on the stones without help. The officer said he could not secure the ruffian.

“Mr. HAMMILL.—Why so?

“Deeble.—Because, Sir, the street he darted into is so filled with thieves of the most desperate character that it would be almost certain death to any single officer who pursued one of the gang into it; there are also several streets branching out of Commercial-street into Brick-lane, of precisely the same character.

“Mr. HAMMILL, addressing Inspector Constable, of the H division, said,—There appear to be a great many very bad robberies lately in the neighbourhood of Commercial-street and Brick-lane, Spital-fields, and it seems to me to require a considerable force there to keep the public protected. I feel it my duty to call your attention to this, as one of the officers of your division tells me that that locality is so infested with desperate thieves that a constable dares not pursue one, in consequence of the intricacy of the adjoining streets.”

Lately, cases of burglary have occurred in Farrington Square and Berkely Square. Banks, the publican, left his house about nine in the evening and was murdered in five or ten minutes afterwards, within five minutes' walk of the High Street of Andover.

There are brigands in the Papal States. We have



searched diligently for some time past for stories of them, and have only found two. Here is one :

“ A letter from Rome of the 15th contains an account of another daring act of brigandage. It says :—‘ The extension of railways in the dominions of His Holiness, will present to travellers the advantage of approaching the Eternal City without being subject to the onslaughts of brigands so much as is, unfortunately, the case just now, when bad roads, tedious hills, and solitary wastes invite outlaws to lay violent hands upon straggling *vetturino* vehicles or ponderous family carriages. A specimen of this disagreeable kind of excitement was experienced on Wednesday last by Mr. and Mrs. Robertson, who were travelling to Rome with post-horses, and had arrived at their last day’s journey, at the town of Viterbo, on the preceding evening. The postillion who drove them out of that town was probably in league with the robbers, for he was observed to pull up his horses at a lonely spot of the forest which covers the mountain of Viterbo, and immediately afterwards five men rushed out of the brushwood, armed with guns and the usual complement of small weapons, and wearing black veils over their faces. These worthies lost no time in opening the carriage door, and were proceeding to drag out the travellers, commencing with the gentleman, when Mrs. Robertson, who has a perfect command of the Italian language, reproached them in such powerful terms for their audacity in venturing to lay violent hands upon a lady, that they finally desisted from their project of dragging her out also, and by that means she was able to preserve her jewel-box, upon which she sat while the brigands turned up the cushions, examined the pockets, and searched the interior of the carriage. Mrs. Robertson, with admirable presence of mind, had received her husband’s purse from him while he was being pulled out of the carriage, and had taken out the chief part of the gold it contained, so that when it was handed over to the brigands with its silver and small change it was not worth much more than a couple of napoleons. The robbers having made sure of Mr. Robertson’s manservant and maid—the latter being infinitely more alarmed than her mistress—proceeded to undo the luggage on the imperial, but their scrutiny of that indispensable appendage to a travelling carriage, was interrupted by the unwelcome intelligence communicated to them by Mrs. Robertson, to the effect that they had better be quick in their operations as a party of gendarmes were at a short distance behind, and would soon appear in sight. This was perfectly true, as the travellers had passed the gendarmes a little time before, escorting a cartful of prisoners towards Rome. The news of their vicinity rendered the brigands nervous ; they detached one of their number to a neighbouring eminence, to keep a look out on the approaching enemy, and soon after abandoned their plunder on the high road to seek the safer shade of the forest, leaving the



well-satisfied travellers to continue their journey to Rome, where they arrived the same evening without further inconvenience, the attack having taken place about 8 o'clock in the morning. A report of the occurrence having been made to the British representative on the following day, Mr. Odo Russell proceeded to the Vatican to narrate the affair to Cardinal Antonelli. His eminence expressed his regret at the reappearance of brigandage so near the capital, and gave immediate orders for patrols of dragoons and gendarmes to be sent in search of the offenders."

This is not a more terrible story after all than some of our English ones. To return to Italy.

"The brigands have been at their handy work on the Florence road, and unfortunately not without shedding blood. On the night of the 24th ult., on the mountain of Viterbo, the courier in charge of the mail was coming down hill at a good pace, when four brigands presented themselves in front of the vehicle, and commanded a halt. The postillion was not able to pull up at once, so that the brigands, fearful of losing their prey, fired, and brought him to the ground, and stopped the horses. They then dragged out the courier and the passengers, the latter consisting of Monsignor San Marzano, a Piedmontese Prelate, his servant, and a French gentleman, placed them with their faces on the ground, and charged them, with threats of instant death, to state what property they had. The Prelate immediately informed them that they would find seven thousand francs in gold in his carpet bag, on which they proceeded to examine all the luggage, abstracting everything of value they could find. The postillion, meanwhile, moaning on the ground with a bullet through his thigh, seemed on the point of death, so that the Archbishop requested permission to afford him the spiritual succour ordained by the Catholic religion; but this was sternly refused by the brigands, who informed him that if he did not lie still they would put a bullet through his head. The brigands at length departed laden with spoil, with injunctions for the travellers not to stir from their faces for half an hour, after which period the courier hastened to the post station, and obtained another postillion with whom to resume the journey."

Really these Roman brigands are not so very much more horrible ruffians than some we have in England. Thus as to London brigands.

"I stopped for a few moments to inquire my way to the Commercial-road, where I am now residing with a relative, when I suddenly felt my throat grasped violently from behind, and my mantle which was worth £5. was forcibly torn from my shoulders, together with a brooch."

A person writes thus in the *Times*.

“Will you allow me, through the medium of your influential journal, to guard the inhabitants of our suburbs from murderous attacks, which it would appear are beginning again to be in vogue?”

“Last evening, about a quarter to seven o'clock, I was quietly walking in Hemingford-terrace, near the Caledonian-road, Islington, on my way home from my office, when I was suddenly struck on the head by a most formidable weapon, either (the surgeon said) a life preserver or other blunt instrument. Though deluged with blood I was fortunately not actually stunned, and pursued the would-be assassin or robber for some distance, but, as I was obliged through exhaustion to desist, he effected his escape.”

Again, come to Bow-street.

“A man of most repulsive aspect, who said his name was George Atkins, was brought up on remand on a charge of highway robbery with violence.

“The prosecutor, a tradesman named Greene, stated that on the night of Christmas-eve he turned into Cannon-row, where he was almost immediately attacked by the prisoner, who came upon him from behind, seized him by the throat with so severe a pressure that he felt half suffocated, and pressed his knees against witness's loins. Witness struggled with his assailant till the latter was compelled to relax his hold a little, so that he was able to call for help. He then perceived that while the man was holding him, the woman was rifling his pockets. During the struggle he was thrown to the ground, but recovered his feet, and detained the woman, having caught hold of her by the lower jaw. Several persons came to his assistance, but some bystanders advised him to let the woman go; he did so, and she escaped. The man ran away, but was followed and taken by policeman, 89 A.”

“A Victim” informs the *Times* that “About six o'clock on Friday evening last, having just past a dark turning in Myddleton-road, Dalston, on my way home from the city, I was suddenly seized round the neck from behind, and being but a middle-sized man, was lifted completely from the ground on the breast of my assailant, whose arms so tightly encircled my neck that utterance was rendered quite impossible. Struggling only served to increase the suffocation and consequent exhaustion. While in this disagreeable position two men came up, and after waiting a few moments till all resistance on my part had ceased, one of them tore away my watch and chain. They would, doubtless, have proceeded to rifle my pockets had they not feared interruption. On being released, and on recovering sufficient breath to raise the cry of ‘stop thief!’ I perceived three men making off in different directions down the bye-streets of the neighbourhood. I regret to add they all made their escape. Although too dark to distinguish their features, they were apparently well-dressed.”

Lord Broughton denies that there is security for property, liberty, or life, in the Roman States. How is it in this country? We can give illustrations under each head, which we defy him to parallel in all Europe.

The charge either means that the Government makes aggressions on life or liberty, or that it does not protect its subjects from the oppression of the lawless. In the former sense we have already in effect dealt with the charge in dealing with the question of criminal judicature. As to the other sense of it, the degree in which it is true of any Government depends mainly on the manner in which it deals with criminals and the efficiency of its prison discipline.

It should be borne in mind that the Papal Government has always had to deal with the difficulty, how to deal with its worst criminals, which we until lately evaded by sending them to the colonies. We can do so no longer, and have of late years known the horrors of liberated convicts.

And as an illustration of the practical working of our criminal system, let us take a case which occurred the other day at Guildhall.

“A man named Gibson was brought up, on remand, charged with being concerned with three other men in the burglary and robbery committed at the residence of Mrs. Humphreys, at Stamford Hill, on the 25th of April, 1856, on which occasion the thieves tied the servant in a chair and the mistress in her bed, and with threats of the most violent character compelled them to silence while they ransacked the house of money, plate, and jewellery to the value of about 2,000*l*.

“One Fleckart was convicted of being concerned in this robbery, at the July sessions, 1856, and sentence of death was recorded against him. But that was commuted to seven years' transportation.

“The man Gibson, under the name of Elliott, was convicted at Birmingham, in 1852, of stealing a horse and cart, for which he was sentenced to ten years' transportation, but received a ticket-of-leave about four years after. A detective officer belonging to the Birmingham police knew the prisoner, arrested him in 1852 on the charge of stealing a horse and cart and a set of harness. He was tried, convicted, and sentenced to ten years' transportation, but he was liberated on a ticket-of-leave. If he had served the whole term he would not be discharged until 1862.

“Henry Slark was convicted at Maidstone 17th of March, 1851, of maliciously wounding with intent, &c., and was sentenced to ten years' transportation. Both the convicts were released on

license from the Stirling Castle hulk, Gosport, on the 31st of March, 1856. Warder Payton, of the Stirling Castle, was tried in the same year at the Central Criminal Court for receiving a silver watch, the produce of a burglary, but was acquitted of guilty knowledge."

"Alderman Humphrey asked how long had he been a warder there?—Inspector Langdon. About three years. He has been tried for receiving this watch knowing it to be stolen, but he was acquitted. I afterwards went to Payton's house, and his wife gave me the watch produced in his presence."

"Alderman Humphrey then remanded the prisoner for a week, and then inquired whether the ticket-of-leave system was still resorted to.—The inspector said it was to a very great extent.—Alderman Humphrey expressed great surprise that a system fraught with so many evils should still be pursued. He could not understand the policy which suggested such a system, and he felt assured that if its supporters had seen, as he had that day, seven persons charged with the most daring robberies, and heard the evidence that five of them were ticket-of-leave men, they would see the fallacy of it at once."

Now we have called attention to these cases as illustrating the great difficulties which the Papal government has to contend with, in having no colonies to transport its criminals to. Thus it has always been in the position in which we were placed by the ticket-of-leave system, that of having criminals forced back upon society when released. We found what the consequences were. And if there were anything like such a state of things in the Papal States, what proof of misgovernment would it be? But there is nothing like it in the Papal States.

"The streets of every town are infested by ruffians who make a walk after nightfall dangerous." So wrote the *Times* correspondent of Rome, and shortly afterwards the following letter appeared in the *Times*.

"I submit for insertion the account of a fact, which, at least, may claim some attention. In walking from St. Martin's Lane, on Monday afternoon, at six o'clock, I was, in the midst of one of the adjacent streets and of a number of people, assailed by a robber, who succeeded in tearing a valuable gold watch from its chain, out of my pocket. I stuck to the man, grasping his arm, and crying for help. When the fellow saw he could not get rid of me he feigned a fall, and one of his comrades took the watch out of his hand. I left the robber on the pavement, and succeeded in getting hold of his accomplice, when some others of the gang grasped my feet and made me fall, so that the robber escaped. At that moment he was surrounded by a crowd of people, who gaped at the fact,

considering, probably, my cries for assistance only as one of the interesting features of an uncommon accident. These people saw the miscreant and the course he took, and were eager to tell the policeman, when he arrived, about the direction, in which the robber was followed with zeal by the constable.

“If I have to complain of the inert behaviour of the numerous bystanders, on the other side I must mention that I met with active sympathy afterwards, one man following me to the station to confirm my statement, another forwarding his address as having recognized the evading thief. By others I was told that there was a gang of regular robbers habitually infecting that neighbourhood, the police being aware of the fact, and having their eyes upon the persons.

“It is a sad state of matters if the police is unable to guarantee passengers against robberies in frequented streets, and by daytime. If the like happened in Rome or Naples an outcry would be raised disgracing the whole population and country, and it must really be regarded as an awful state of things in your metropolis when all the security which you may expect in a civilized community is thus taken away, and when in a crowded street at such an hour you do not feel more safe than at the midnight hour in a lonely forest.”

And these are only specimens of hundreds of such instances. It is plain, then, that if what the *Times* says of Rome be as true as it is notoriously false, it is equally true of London or of Liverpool! And what then does it prove with regard to good or bad government? Is the influence of bad government admitted as to this country? If not, why is it upheld in regard to the Papal States?

In Mr. Whiteside's, and all other books against the Papal Government, a great deal of odium is attempted to be cast upon its criminal administration of criminal justice, especially in regard to what are called “political offences.” In most cases this arises from sheer ignorance; in his, this could not be the case, and we are compelled to arraign his candour. The charges made resolve themselves, so far as they are at all tangible, into two, the examination of the accused, and the not confronting him with the witnesses. As to the first, we have, on a former occasion, shown that the French and the Scotch law allow of the examination of the accused the one before the other at the trial; and that ours, although it does not allow of his deliberate examination, allows evidence to be given of any casual observation or exclamation which he may have dropped, perhaps in excitement or apprehension, and does not allow him to explain this exclamation at the trial,

although perhaps it was of a nature to require and admit of explanation, and which he alone could offer.

Nor is this all. For we may inform the reader that the accused is always asked, at the time of his committal for trial, what he has to say; and we need scarcely observe that silence is often as damnatory as words could be, while the inducement to keep silence is increased by the customary caution that everything the accused may drop will be evidence against him, while nothing that he says will be admissible on his behalf. We showed that our greatest jurists were at variance on this question, some of them preferring the continental system in whole or in part to ours; conceiving the former to be more calculated to elicit truth, and more likely to conduce to the ends of justice. But what should be thought of a lawyer assuming this great problem of criminal jurisprudence to be settled in accordance with his own prejudices, and then holding up to obloquy the judicature of another country for acting on an opposite system?

But now a word as to the accused not being "confronted" with the witnesses against him, about which Mr. Whiteside is so indignant. In the first place we doubt if it could possibly be of much consequence, the accused himself being examined. But in reality the complaint is a most amusing blunder, the consequence, if not of ignorance, of unfairness and want of candour. The mere confronting the accused with the witnesses against him at the time of final trial is of little if any consequence to him, for it is too late to be of any avail. Either he knows them already, or he does not. If he did not know them, what time has he, at the trial, to make any inquiries about them? If he does know them, he will probably also know whether they are likely to be called against him, and if they are called will be able to tell his counsel how to deal with them, that is, if the trial is, as ours is, conducted with oral examination of witnesses. If it is not, and if the depositions are written, then passing by the question, in itself a difficult one, which is the best mode of examination, (a question which we seem to have solved very sensibly, but in a manner to show its difficulty, by adopting both systems,) then the "confronting" of the accused with the witnesses is of still less avail, and in no view can it be of any earthly consequence at all. For he or his counsel before the trial will have the written deposi-



tions of the witnesses before him, and of course, whether the accused knows them or not, will have opportunity of inquiring about them.

Now it is this opportunity of inquiring about the witnesses which is of real importance, and that it is so we can illustrate from our own criminal law. In ordinary cases the accused, under our system, may not know before the day of final trial the names of the witnesses. And it is only at the time of final trial he is "confronted" with them all. If the preliminary proceedings were before a magistrate, he sees and hears some witness or witnesses, such as may be barely sufficient to justify the magistrate sending him to trial, probably quite insufficient to secure a conviction, so that other witnesses must be obtained, and their evidence taken, prior to the trial; and these, perhaps the most important witnesses, are examined secretly, behind the back of the accused, (who probably is in gaol,) and are then at the trial suddenly produced and "confronted" with the accused, without any previous notice to him that they are to be produced against him! This is our boasted English system in all ordinary cases, even on the supposition most favourable to it, that the preliminary proceeding is public before a magistrate.

If it is secret before a grand jury of course it is worse. The accused is not present; the witnesses are examined against him behind his back; he is suddenly arrested on a bench warrant, and cast into gaol, and he is afterwards arraigned for trial, without previously knowing who are the witnesses against him. Such is our system in all ordinary cases. See how hard it is upon the accused as compared with the Roman system, and see how little is the good of being suddenly confronted with the witness at the time of final trial.

Because the English system is so hard upon the accused in ordinary cases, an exception has been introduced, by special statute, in England, and only in certain cases of constructive treason, requiring that a list of the witnesses to be produced at the trial shall be given to the accused ten days before trial.

This, we repeat, is a special provision, only applicable to certain offences, and only in England, not extending to Ireland, as the House of Lords held in O'Brien's case, in 1849. Observe, a list of the witnesses to be produced at the trial is to be given to the accused ten days before trial.



Why? That he may be able to make inquiries about them, and prepare evidence to destroy their credit. Not to combat their testimony, for unless they happen to have been examined in his presence before a magistrate he cannot know what it will be. Even knowing their names, therefore, he meets them, at the best, in these favoured cases, rather in the dark. But that is all the English law does for the accused, even in the most favoured country and the most favoured class of cases. It gives him the names, nothing more.

That is little, although something; and that little, as we see, is not done for all, but only in the *rarest* class of cases. From that, however, we may collect the worthlessness of that about which the assailants of the Roman system affect to feel so much, the accused being confronted with the witnesses. Why that is the course in all cases, under our system, at the time of trial; but it being then of no earthly use, except for purposes of cross-examination, and that being only available, with effect, upon previous information. When the English law desires to assist the accused, it gives him what is alone of practical service, viz., the names of the witnesses *before* the trial. Now that which in the English system is done only for a particular and very rare class of accused persons, is done by the Roman for all. And far more. For under the Roman system the accused or his counsel has not only the names but the depositions of the witnesses.

All these remarks are illustrated by the proceedings of Mr. Whiteside himself in the late prosecutions in Ireland. Thus, the first step taken after the arrest of the accused was to examine the witnesses in secret. Nor was this all. A man was arrested as accused, and kept in prison until he became the accuser; that is, a man is put into prison, and under the pressure of imprisonment, and the terror of his situation is examined, and induced to become a witness against the others.

The *Times* correspondent in Dublin made a jest of the matter. What would he have said of it at Rome? Thus he wrote of the situation of the prisoner who afterwards turned accuser.

“Descriptions were given of his being dragged, in the middle of the night of the 12th of December, out of his bed, while he was labouring under consumption, and lodged within the cold walls of a prison. One rumour after another was circulated of his rapidly

declining health, and a fear was expressed that he must soon fall a martyr to the hard-hearted cruelty and persecution of the government. Mr. Rea applied to have him admitted to bail, on the ground that he could not survive longer imprisonment. How Mr. Tracy must have enjoyed this ludicrous exhibition of newspaper commiseration when he knew that, at the very moment when it was greatest, the object of it *was quietly giving evidence which may yet transport not only his brother conspirators of the Phoenix Club, but his own brothers by birth, two of whom are among the prisoners.* Very little doubt can now be entertained of the result of a public trial, for Carolan and Kelly, the latter of whom was not present at the lodge at the time of the arrest, prove the same facts, though *the greatest care has been taken that they should not have any communication with one another.* The result of the preliminary investigation is that Hughes, the poulterer, who was arrested in his own house on the night of Sunday, the 12th of December, has been admitted to bail, to appear and take his trial at the assizes ; and that, of the fifteen prisoners arrested in Mrs. M'Key's house, *fourteen have been returned for trial, and bail refused.* Carolan, the approver, is the fifteenth arrested in the lodge, and Kelly, the other approver, completes the number."

So fifteen or sixteen persons are arrested and lodged in gaol, and then one or more of them are dealt with in secret, in prison—under the duress and terror of imprisonment—to consent to become witnesses against the others. That is our criminal system.

That is the mode in which our crown lawyers obtain evidence in Ireland, even in political cases. And so in England the system is the same. At the close of last session Lord J. Russell pretended to represent that confessions were obtained by torture in the Roman prisons, and he stated as a proof of it, that a confession so obtained had been rejected. A strange mode of proving his charge. But Mr. Maguire has lately told the truth about it, which is simply that some police officers, without authority, ill-treated a prisoner, and were dismissed for it. So the case proved as much against the Roman system as the following case does against the English.

"Improper modes of obtaining evidence are very generally scouted in this country. A case of the kind, however, was revealed at the Bodmin Assizes. Francis Rashleigh was indicted for burglary. A house, left in charge of two girls, was robbed while the maidens were at a revel; suspicion fell on Rashleigh, and he was arrested. Thomas Martin, a constable, introduced himself in plain clothes into Rashleigh's cell, and by pretending to be a prisoner,

obtained, according to his statement, a confession from Rashleigh of the mode in which he perpetrated the burglary. Baron Watson told the jury that they must draw their own conclusion from the evidence of a man who placed himself in so degrading a position as to go to a prisoner under false pretences. Bad as the evidence was, it was badly used and badly brought forward, and kept back till the last moment. He should advise the jury to pause before they gave credit to such a person. The jury acquitted Rashleigh, and Baron Watson commended Mr. Constable Martin to the notice of the magistrates."

The cases, it will be seen, are just on a par in this respect, that they are both instances of unauthorized and illegal abuse, visited with condemnation when discovered. What government or system of law can be held responsible for such isolated instances? And what would be said of a Roman ecclesiastic who should conjure up a charge against the English system of judicature on the strength of the statement just quoted? In the language of the *Register*,—

"We pass from the jury-packing of the south, on which the public have already pronounced, to the jury-packing in the north. We dwell not now on the preliminary steps by which the trial was approached: the informer's evidence on which the accused were long kept in custody, bail refused: the entire exclusion from the prisoners of their friends: the so-called investigation in gaol, where the attorney for the accused, Mr. Rea, found it impossible to attend consistently with his own safety and independence, unsupported, as he would have been, by the presence of the public or the press: the rumours of treachery by one isolated prisoner carefully communicated to and from the others: the prying attempts of Forbes, the gaoler spy, to procure evidence of guilt—though these are full of deep significance. We are arrived at the day of trial; the prisoners are called on to plead; the jury is about to be empanelled; the charge is but misdemeanour, and so, while the Crown had the power of challenge, the prisoners have not, and, without it, are wholly at the Crown's mercy. How is that power used? As each man, who is known to be a Catholic, comes to be sworn, he is told to 'stand by,' and, without cause shown he is rejected before his fellow citizens as unfit to serve as jurymen between the Crown and the prisoner, and thus seven were rejected. The result of that trial was a disagreement of the jury, and a new one impanelled—justice, according to Mr. Whiteside, was not yet satisfied. Again, seven Catholics are called as jurymen, and again contemptuously ordered to stand aside."

"The Phoenix trials are recommencing. In constituting the jury, the Crown have peremptorily challenged *fifteen* persons, of

whom *eleven* are Catholics ; while at the other end of the island, the solicitor for the accused comes into court swearing that he is refused the usual information with regard to the witnesses, and their testimony, without which any trial must be but ‘a mockery, a delusion, and a snare.’ ”

Mr. Whiteside, the assailant of the criminal judicature of the Papal States, maintained that all this was in accordance with the English law. It may be so. But if so, what becomes of the boasted trial by jury ? and what of his own and all the usual hackneyed charges against the criminal procedure of Rome ?

“The Roman lawyers,” complains Mr. Whiteside contemptuously, “do not understand the system of admitting prisoners to bail, and so they are detained in gaol for long periods awaiting trial.” Indeed ? Why did he not mention that in serious cases in this country, the granting of bail is discretionary, especially in political offences, as his own practice has quite recently illustrated ? For example, not to speak of the Phoenix prisoners, kept in gaol for months, we read this not long ago.

“Just before the termination of the Nenagh assizes, a young Tipperary peasant, Patrick Maher, was discharged from custody, having been imprisoned eighteen months on a charge of conspiracy, without ever having been brought to trial. Assize after assize came and went, and this poor man was suffered to remain in gaol, his health being injured, his worldly prospects blighted, and what once was home, lost to him for ever. An old mother, heart-broken for her son, was forced to seek the cold shelter of the poorhouse, and the farm on which his father and himself toiled for many a weary year he can no longer call his own. A case of greater hardship has never come under our notice, and the demand of the Crown that he should be liberated on bail was very properly resisted by the prisoner and his professional advisers, and rejected by the judge. Maher is now a free man, but what will compensate him for the suffering he has been forced to endure—what will recompense him for the wreck that has been made of his hopes and fortune ? When a case could not have been brought against him he should have been at once liberated, and the law, whose aim is the well-being of society, should be guarded with such jealousy as would prevent it being made, as it was in the instance of this humble peasant, an instrument of oppression and a perpetrator of wrong.”—*Tipperary Free Press*.

And a short time ago we found that the Court of Queen’s Bench in Ireland were equally divided on the question of admitting the “Phoenix” prisoners to bail, to

which the Irish Attorney-General would not assent, that very Mr. Whiteside who said that the Roman lawyers did not understand the system of admitting prisoners to bail!

And then again look at the intolerable oppressions perpetrated by magistrates in "summary convictions," to which we have lately called attention in a special article, and of which we could give innumerable illustrations.

Look again at the blundering bungling way in which our criminal functionaries too often conduct their business. At a recent assize Baron Channell had to complain that the depositions were sent to trial all in confusion, the various cases mixed up together. So the other day at Westminster we read—

"The judge remarked in the course of the day that a good deal of difficulty had been occasioned in conducting the business of the court through the depositions not being sent from the police-courts until the Saturday preceding the sessions. Fifty out of 70 sets were returned last Saturday, and the clerks in consequence had to be at work all day on Sunday in making copies of them, which was in itself very inconvenient, and also involved an inconvenient and unnecessary loss of time to the public, who were kept longer than they need be by the cases not being ready. The clerks at the police courts, he was sure, would prevent this in future by sending the depositions to the Court a day or two earlier."

And on another occasion we find grievous complaints as to the depositions being illegible, and the *names* unintelligible. We have ourselves often heard judges make this complaint. Now fancy an acute Protestant lawyer in Rome prying out a number of such abuses, if he could do so; what would he not make of them? Yet would they prove a case of misgovernment? Look again at the disgraceful condition of too many of our court buildings; we constantly read such complaints as these:

"The court was inconveniently crowded during the day, and the counsel took occasion to observe that it was certainly a reproach to the county that a better court was not provided. Much had been said about improvements and alterations, and the money voted he believed, but very little had been done."

But we have a word now to say about our boasted "trial by jury." That palladium of liberty! See what comes of it. Its advocates declare its virtue to reside in the *unanimity* of the jury. So argues a sound Protestant, Mr. Rochfort Clarke, in his late pamphlet

on the subject; although in Scotland a verdict is given by a majority, and so in France. Admitting the arguments as to unanimity—how is it attempted to secure it? By torture. By absolute pain of starvation. By fear of some illness. By confinement until the fever-stage of famine. It is not strictly legal to discharge a jury until a medical man certifies that one or more of the jury are suffering from illness, so that it is unsafe to confine them further. This has happened of late over and over again. It was illustrated in these very state trials. Is it not manifest that the result is to give the superiority to strength of stomach, not of head? and so to verify the adage of Pope—

“And wretches hang that jurymen may dine.”

Alas! the proverb is not musty. Ask those who practice in the criminal courts of this country. Anyhow—what is the infallibility of our boasted trial by jury?

Take a more serious—a very shocking subject to which we have in a recent Number specially called attention. The administration of justice in capital cases upon the evidence—uncorroborated, or *hardly* corroborated—of accomplices. What can be worse than the system which prevails in Ireland, of *requiring* juries to convict on the evidence of wretches, by their own confession infamous, and who have the strongest interest in fastening the halter round the necks of any others than themselves! Mr. Whiteside, when he concocted his shallow and baseless attacks on the criminal judicature of the Papal States, had nothing specific to allege against it in the way of substantial cases of *proved* injustice, and he might have remembered the revelations before Crime and Outrage Committees, of innocent men falsely convicted and *executed*, in consequence of the atrocious system pursued in Ireland of offering rewards for conviction and receiving the evidence of accomplices.

And then in England, who that has read will ever forget the exposures a few years ago before a Committee of the House of Commons, of a system of rewards to policemen for obtaining convictions! (upon their own evidence chiefly) their promotion being made dependent upon the number of convictions they obtained. A more atrocious system, or one more certain to prevent justice and lead to the most dreadful consequences, cannot be conceived. Who



could doubt it who recalls to mind Jonathan Wilde and the Blood-money act long ago repealed, but in principle renewed by this infamous system of making promotion a premium or a temptation to perjury; a system so covert and detestable that Sir Alexander Cockburn, then Attorney-General, declared with fervour that he was not aware of it. Yet it still exists: and so long as there are no "public prosecutors" it must exist. Policemen are "bound over to prosecute." They arrest parties, they accuse, they conduct the case, they get up the evidence; they receive the expenses of prosecution, they get promotion if they succeed. Could any system be more vicious or pernicious? We challenge any one to find anything like this in the Papal States.

Our own criminal judicature is so perfect is it, that we can preach to other countries? Why it is one enormous mass of egregious anomalies and absurdities, obvious inconsistencies and iniquities. Look at the conflicting jurisdictions of coroners and magistrates, and the unseemly contests about dead bodies. Look at the absurdity of the grand jury system, under which cases which have been already *publicly* investigated by experienced police magistrates, are *secretly* enquired into by a couple of dozen of laymen; who make such blunders that instances occur of men professing themselves ready to plead guilty who have been discharged by the grand jury! Look again at the long confinements undergone by prisoners committed for trial for petty offences; as to which the report of the last Kent assizes contained this statement:

"On the criminal side there are over 100 prisoners for trial, this large number being *occasioned by the refusal of the magistrates to hold an adjourned session for the disposal of trivial cases shortly before the assizes.* With the exception of one case of murder, and a few other serious charges, the great majority of the cases in the calendar consist of *petty larcenies and others of a trivial character.*"

"Baron Martin, in charging the grand jury, referred to the large number of prisoners that were for trial; and he at the same time expressed his opinion that a great many of the cases *might have been disposed of summarily by the magistrates,* and thus a very great saving of expense to the county might have been effected!"

Aye, and what is far more important, a great saving <sup>the</sup> *liberty*; for it often happens that poor creatures have <sup>led</sup> *been* in prison for far longer periods than would be due to their offences.



In consequence perhaps of the disclosures we have alluded to, the Government tried to reduce the allowances to policemen and others prosecuting persons for crime. But if we may believe a writer in the *Times* the result has been only to produce an evil in another direction. It is clear that the reduction has tended to *diminish prosecutions*.

“ These reductions have operated most mischievously in thwarting the ends of justice and in destroying the efficacy of the costly machinery established for the detection and punishment of crime. Witnesses of the poorer class find that they are allowed little more than their railway expenses, and they may live three or four days at the assize town as they can, at their own expense—a lesson they do no fail to remember and make known to all their acquaintances. Prosecutors who have been robbed of a few pounds find that they have lost more by prosecuting than by the robbery, to say nothing of their loss of time and the other necessary annoyances to which they have been subjected. A respectable man is allowed what will barely pay for his bed and breakfast at an inn. A policeman has the satisfaction of living at an assize town partly at his own expense. If he has been very diligent in the following up and detection of crime, and has gone to any expense in so doing, he finds to his cost that this is set down to his public spirit, and that he must pay for it himself—a lesson which he does not forget the the next time a similar opportunity occurs. Not long ago an active detective officer at Bradford traced and followed up a thief to Sheffield who had committed some grave offence, and there secured him, and in doing this incurred some 5*l.* or 6*l.* expense. His expenses were not in the “Government scale of allowances,” and were refused to be paid to him. It may be taken for granted that this detective officer will never detect himself incurring such a penalty again. At this moment the Government for similar reasons, have refused to sanction upwards of 700*l.* costs which have been allowed by the West Riding justices as absolutely necessary for the ends of justice, and the West Riding justices do not know what to do about it. The North and East Riding justices have already solved the difficulty by allowing, out of their Riding funds what they deem to be just and necessary expenses and fees. The effect of this is apparent and not to be mistaken in the character of the present calendar. Crime, apparently in these two agricultural Ridings has not decreased ; but it is to be remarked that the protection of crime in these two Ridings is now reasonably paid for, rather is not prevented by a scale of costs operating as a fine to the parties who attempt it. In the West Riding, a manufacturing district, in which the population is daily increasing, the new scale of allowances has as yet full swing, and the result is seen in

the average number of from 50 to 70 detected and prosecuted cases in this Riding being reduced in the present calendar to 26, *less than half the usual amount.*"

This cuts two ways, but in any view shows how little this country has a right to assume the perfection of its criminal system. See what follows :

"The Old Bailey has among lawyers passed almost into a byword, from the manner in which business is done there. This great circuit has hitherto prided itself on the manner in which the business has been done upon it. The shabby and indecent exhibition of exacting from the presiding judge the prosecution of the prisoners, who, if undefended, the theory of the law assumes him to protect and defend, ~~has~~ never been tolerated on this circuit. Yet it is understood that all these Old Bailey practices, which have not added to the reputation of that place, are thought models of excellence to be enforced throughout the country where nothing so bad and inefficient in every sense was ever known to prevail. The result will be that offenders against the law will go unprosecuted until, hardened by impunity, they commit crimes too serious to be passed over. The process may be 'cheap,' but the community at large suffers by it."

So much for English criminal judicature. What evidence is there to compare with these things against the Roman system ?

It happens that the subject of the scale of costs of criminal prosecutions is now seriously under the consideration of the whole country. Throughout the length and breadth of the land, particularly in widely extended counties, such as Yorkshire, to which attention has been called by articles in the *Times*, and the revelations made reflect a broad light on the administration of criminal justice in this country. The other day, after a case had concluded,

"Counsel, in applying for the costs, said the rule in this court was, he understood, that the costs of cases were allowed ; but it seemed there was somebody in the office who had a discretionary power over the order of the Court, and allowed or refused the costs as he pleased.

"The Assistant Judge said the Court had ordered the costs of prosecutions to be allowed, subject to an inquiry by the officer as to the prosecutions being *bond fide* conducted by an attorney for a client, not by some person who raked up a case for the mere sake of the costs to be allowed by the Court. He was informed, and, indeed, knew, that several frauds had been committed in this way, and it

was a very wise and proper discretion which the officer had exercised, and by which he had defeated many of these attempts."

So it seems prosecutions are got up for the sake of costs. We should come to the same conclusion from an article in the "Times":—

"The complaints which were rife in Yorkshire are equally prevalent here in Lancashire, that the present scale of costs in criminal prosecutions is gradually and surely producing most mischievous results. The calendar here, which, apparently, is unusually light, is said to be no true indication whatever of the state of crime in the country, and that gradually, but surely, under the operation of the new Treasury scale of costs, a feeling is springing up in the English population which statesmen have so long deplored as existing in Ireland, that it is better to conceal crime, and to avoid coming forward as witnesses for its detection and punishment. In Ireland this feeling has probably arisen from the fear of the vengeance of the relatives and friends of the prisoner against whom evidence is given. What its effect is we know. The assassin is protected and hidden, and it is almost impossible to obtain evidence which will secure a conviction. Here in England we have been hitherto in the habit of priding ourselves on the readiness of everybody to bear witness against a criminal, and on the consequent certainty of the detection and punishment of crime; and we have been, perhaps, too much in the habit, like the Pharisee, of 'thanking God that we are not as other men are' in the sister island. But that which the fear of vengeance has effected in Ireland, is rapidly being effected in England by the new scale of Treasury costs in criminal prosecutions. Witnesses are angry and protest at the pittances tendered to them, and aver that they will never be witnesses again in any case whatever. These witnesses, when they go home, tell their experience to their wives and neighbours, and the result is beginning to appear; witnesses will not come forward, and when questioned will not know anything about any criminal offence, or about the persons concerned in it. The result is offenders are at large, and the calendars are light. At York it was generally talked of that above a score of offences which were known to have been committed in Leeds could not be brought home to the criminals, because witnesses held back, and prosecutors refused to prosecute, deterred by the expense to which they would be put over and above the Treasury allowance. It was said that the offenders in three garotte robberies at Sheffield were known, but could not be brought to justice for the same reason."

So that it seems Englishmen care little to detect crime. It is all a matter of costs. Prosecutions fall off—and this, mind, merely because the allowances are reduced; so

that possibly a prosecutor might lose a shilling or so ! For that, robbers and murderers are allowed to escape. The very charge made against the Irish people.

What would be said of the Roman States if such a feeling prevailed there ? It is only a matter, mind, of shillings.

“ The supposed model for this scale of costs, which is to be made of universal application, is Wiltshire and the South of England. It may be that a witness from the labouring class in Wiltshire may be quite satisfied with an allowance of 3s. 6d. per day for his costs in attending an assize prosecution. Where wages are 9s. a-week, 3s. 6d. a-day may seem a most satisfactory allowance ; but here in the northern counties, where wages range from 25s. to 45s. a-week among the great mass of artisans and mechanics and miners, of whom the population is composed, to offer a witness of that rank of life 3s. 6d. a-day for his expenses, when he can make 6s. or 7s. a-day by stopping away, is simply to impose a fine upon a man who cannot very well afford it, for coming forward frankly and readily to do his duty as a witness against a criminal, as Englishmen hitherto have done. But if you look at this allowance as applied to men in a superior class, it becomes simply absurd. An attorney who is obliged to attend as a witness, and not professionally, gets 3s. 6d. a-day. It may be said, men in this rank of life can afford it, and it is their duty to come forward as witnesses when called upon. The theory may be admirable, but in practice it will not work. The plain fact is, the universal and uniform scale of costs and allowances framed on the model of the cheapest and worst paid district of England is a mistake, and the sooner it is remedied the sooner will the growing feeling of refusing to give evidence which will convict criminals cease to increase, as it now most certainly is doing.”

Thus, then, the difference is, as regards the poorer sort, only between 3s. 6d. and 6s., and that occurring once or twice in a man's lifetime. And for this, crime is to be allowed impunity ! Good heavens, if that is so, what terrible temptation to unjust accusations, the addition of a few shillings would be !

Such is criminal justice in England and Ireland ! Is it more favourable to the accused than the Roman system ? But even if not, is it a proof of bad government ?

Take a more important subject, closely connected with this, that of education. On the subject of education in Rome the following facts are worthy of notice in Mr. Maguire's book.

“ Cardinal Morichini states that in 1842 there were in Rome 27

institutions, and 387 schools for the instruction of the children of the poorer portion of the public. Of these 180 were for children or infants of both sexes; and of the remainder, 94 were exclusively devoted to males, and 113 to females. The total number of scholars in elementary schools amounted at that time to 14,157. Of these 3,790 were of the infant class; and of those of more advanced years, 5,544 were males, and 4,823 females. In gratuitous elementary schools 7,579 received their education; nearly 3,952 boys and 3,627 girls. In schools paying a small pension there were 1,592 males and 1,196 females, making a total in such schools of 2,783. Of the 387 schools referred to, 26 belonged to religious communities of men, and 23 to religious communities of women. The rest belonged to, or were conducted by, seculars. In addition, 2,213 children of both sexes learned the rudiments of education in special conservatories and hospitals. The figures which are given exclude students of the universities and higher colleges. Including these, however, with the classes already mentioned, the student population of Rome, as compared with the total population of the city, was, in the year 1842, as one to eight. But, since then, as I have shown, the schools and the scholars have considerably increased."

\* To this statement Mr. Maguire appends a note quoting the authority of Mr. Horace Mann, who refers in his tour to "most competent authorities," to the effect that one in eight is considered a most satisfactory proportion for the pupil section of the population; and that in England in 1851 the nominal education of England was only one in eight one-third; while our author infers, from the increase of education in Rome, that this ratio must now closely approximate to one in six in that city. But last year Sir J. Pakington made a comparative statement between the state of education in this country and the continent, and stated that,

"As compared with foreign countries, England was exceeded in the proportion of attendance. In Sweden the centesimal proportion of attendance at schools is 1 in 4; in Russia 1 in 7; in France 1 in 6. In Saxony the proportion is 1 in 5; in Denmark 1 in 7. Instead, therefore, of England having only one country better than itself in this important respect, there are not above three or four countries in Europe which are in a worse position than that in which England stands at this moment. The right hon. baronet adduced a mass of documentary evidence and statistical returns, showing that from 36 to 98 per cent. of prisoners in gaol could neither read nor write perfectly; that the means of education were meagre and inefficient, thus proving that the voluntary system was insufficient; that it does not educate the people,

and that some auxiliary system must be adopted. He asked how it was possible, in the face of these facts, gravely to assert that the education of the people of this country was in a satisfactory state? Instead of being progressive, there were parts of England in which education was retrograding."

We remember before the Mortmain committee, when an attempt was made to cast odium on the administration of charities in Rome, particular obloquy was thrown on what are thus described in the "Register's" review of Mr. Mayhew's admirable book.

"Those excellent institutions for the portioning of poor girls, so as to save them from the danger of seduction (institutions which canonised Saints have regarded with such tender interest)—why, they have existed in Rome certainly since 1460 (for a society then established still exists), and, in all probability, this form of charity existed there long before. The society was constituted an arch-confraternity by Gregory XIII. in 1581; and Pope Urban endowed it with his wealth. As early as 1600 it portioned 200 girls annually; in 1700, not less than 400. The Cardinal Vicar is its protector."

Mere hearsay of the most vague, and we will add, of the vilest character, was admitted against the management of the magnificent hospital of San Spirit.

It was insinuated before the Mortmain Committee that Roman hospitals were "jobbed" or mismanaged: and then the inference was suggested that this showed bad government. But if jobbery in charities is a proof of bad government with what terrible proofs of bad government do the records of our Chancery courts teem. Take an instance.

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"An information by the Attorney General against the Dean and Chapter of Rochester; the object of which was to recover from the dean certain property situate in the parishes of Chatham, Frindsbury, and St. Margaret's, and amounting in value to about 3,000*l.* a year, for the benefit of a charity called St. Bartholomew's Hospital, Chatham, near Rochester, for lepers, to which the property rightfully belonged. The origin of the charity in question was this; it appeared that in the year 1078, or thereabouts, a lazaret-house or hospital for lepers, called the Hospital of St. Bartholomew, near Rochester, was founded by Gandulphus, Bishop of Rochester, but the documentary evidence as to this was not very clear. It consisted of a prior, brethren, and sisters, and appears at first to have had but a very slender provision for their sustenance. The first document deserving of notice—and indeed, the earliest document existing in reference to the subject—was a writ



of inquisition, dated the 14th of March, 16th Edward III. (1342), issued by the crown, in consequence of a petition by the then prior, brethren, and sisters, alleging that their revenues were insufficient for their support, and praying the Crown to order that they should be discharged from the payment of a ninth of all sheaves, fleeces, lambs, and wool. The inquisition was accordingly taken, and the value of the property, of which the charity was seised, ascertained (which was very small); and at that time, according to the return to the writ of inquisition the foundation consisted of a prior, nine brothers, and seven sisters, of whom the prior was a leper, and one of the brothers affected with epilepsy. In the 22nd year of Edward III. (1348), that king by letters patent granted the charity a release from all taxations, talliages, and contributions whatsoever, and all charges—whether by commonalty or clergy—out of his compassion for the poor lepers. This quittance was confirmed by letters patent of Richard II., and also by Henry VI., who also confirmed to the charity a certain messuage or tenement therein mentioned. Thus a series of letters patent and grants clearly showed that the hospital was a hospital subsisting by itself for lepers, and occasionally for persons affected with epilepsy. But on the other hand, it was attempted to show that the Prior of the Monastery or Convent of St. Andrew's, Rochester, which existed prior to the reign of Henry VIII., had the benefit of the hospital and a claim to the property; and that—the monastery having been dissolved by King Henry VIII.—its revenues passed to the Crown, and were afterwards granted by letters patent to the Dean of Rochester, the Dean and Chapter had afterwards claimed the property, the latter being tenant. That on the dissolution of the monastery of St. Andrew's, the Crown bestowed all the lands belonging to it on the Dean and Chapter, but not any of those belonging to the hospital.

“An old register of the persons placed in the hospital by the dean, which extended from 1571 to 1675, was called ‘the register of the men placed in the hospital by the Dean of the Cathedral Church of Christ and the Blessed Virgin Mary.’ That showed that the dean and chapter were patrons, but not that they were entitled to the revenues. Then there are leases, commencing in 39 Eliz. (1596) made with the consent of the dean, and with a reservation of the rent to the brethren. The next thing was a grant of letters patent of James I., in the 18th year of his reign, of the lands belonging to the hospital of St. Bartholomew, on a suggestion of Viscount Doncaster that they formed part of the lands of the monastery of St. Andrew's, and were suppressed or concealed lands. This grant was made to three persons in fee, in trust for Sir John Townshend. The suggestion, however, that the lands were concealed lands, and part of those belonging to the monastery, *was false*, and the tenants thereof refused to attorn to the trustees of Sir John, and a petition was presented to the then



Attorney General, who recommended an arrangement between the parties. A suit, however, was instituted by the Attorney General against the Dean and Chapter, and the dean by his answer distinctly stated that the hospital was a separate lay hospital, and had been so from time immemorial; and he denied that the hospital was other than a lay hospital for the relief of poor persons. The suit was ultimately stayed by the Attorney General, and no decree was made; but on the 14th of June, 1627, an arrangement was made to make the dean patron of the hospital and convey the property to trustees for its benefit. On the 2nd of August, 1632, the property was accordingly conveyed to the charity, and the dean was declared to be the patron. Yet the profits have been taken by the dean and chapter for two hundred years."

For two hundred years the whole revenues of a noble charity appropriated by a dean and chapter. This is only one instance. He who wishes to have many such let him read *Whiston's Cathedral Trusts*, or the reports of cases in Chancery. Not one case in a hundred is remedied. But are these proofs of bad government?

But if we wished to make a case against our London hospitals or workhouses, we should do so not merely by a host of instances, but by a description of its management, showing that it caused such abuses. A year or two ago we read the following report of an inquest at one of our London workhouses.

"It appeared from the evidence of two aged females, one of whom was verging on eighty years of age, and who acted as nurses in the workhouse, that the deceased had been ailing some days before her death. However, there was nothing in her case to lead them to suppose she would go off so suddenly; but upon one of the women, Anne Martin, going towards the poor creature's bed, at an early hour on the morning in question, she found the unfortunate woman, as she considered, a corpse. Without more ado, she immediately called the other female, Bassett, to her assistance, and they proceeded to lay the hapless woman out, never for a moment considering the desirability of sending for the medical officer.

"The Coroner remarked, that the nurses' conduct in the case was the most extraordinary and censurable, for they should certainly have sent for the medical officer when they found, as they supposed, the deceased dead, as, in many cases, it was extremely difficult for a medical gentleman even to say whether life was extinct or not in the human frame. He also considered it very extraordinary that the parochial authorities should appoint such aged persons as nurses to the workhouse, for it seemed they were rather more fitted to be nursed themselves than to act as nurses.

"The assistant parochial surgeon, in stating that he performed the

*post-mortem* examination, and found death resulted from 'natural apoplexy,' observed, in reply, that of the thirty-eight nurses in the workhouse infirmary over one half of them were aged and decrepit persons, and he was bound to say that there was not a sober woman among the whole number. The sick poor required better nursing than medicines, but this they were unable to obtain under the present system.

"The Coroner, in summing up, remarked upon the extraordinary disclosures that had taken place, and hoped that they would be made known to the authorities."

Whether they were or were not matters little. Such cases are of constant occurrence. Who remembers not the horrible disclosures of the Andover union? or the Norwood Infant School?

A bill is at this time before Parliament introduced by Mr. Fitzroy, Mr. Gregory, and Lord J. Browne, which recites that "It has been found that the mortality among infant children admitted into the workhouses without their mothers is very large, and that in other respects the workhouses are not well suited in all cases for the care and nurture of such children during infancy." Here are evidences of a system which is fatal; and we could at any time fill an entire number with evidences of this kind. Yet would any of the assailants of Rome admit that on the whole England is an ill-governed country? At all events, would they admit that these abuses, horrible as they are, would be any decent pretext for insurrection, or revolution, or for foreign intervention?

Look at our system of pawnbroking, affording such facilities for what our Judges justly termed the most mischievous species of crime, the receiving of stolen goods. But for such receivers (say the Judges) there would be little stealing. Well, how is it at Rome? There are

"Those admirable institutions, the *Monti di Pista*, designed to secure the poor from the evils of usury and the robberies of pawnbrokers, to which in this country they are mercilessly consigned. These excellent institutions were established in 1539, and sanctioned in 1539. Extinguished in the troubles which marked the close of the last century (says Mr. Maguire), they were resuscitated in 1803 by Pius VII. And Gregory XVI. established Savings' Banks for the benefit of the poor, which have now a million sterling of deposits."

That was the Pontiff whose administration is so reviled by Farini. While we were fostering gin palaces, and

pawnbroking shops, to feed our lunatic asylums, and our gaols—the Pontiffs were busying themselves to relieve poverty and prevent crime. Farini actually ventured to scoff at the Roman Government for want of popular education. Those who have read Sir J. Pakington's speech on the subject, will appreciate the veracity of Mr. Gladstone's *protege*. Why there are more pupil training schools in Rome than in Edinburgh. And long before the Scotch parochial system, so much vaunted, it existed in the Papal States. We learn from the work of Mr. Maguire, that "Long before a system of gratuitous instruction was established in Rome, (which was so long ago as 1597,) a regular system of poor schools had existed for ages in the Papal States—a system of regional or district schools, the masters of which were partly paid by the Government and partly by a small weekly stipend from the pupils. And since that age the system of gratuitous elementary instruction has been zealously carried out by successive Pontiffs, Leo XII. having placed it under the control of the Cardinal Vicar. There are nearly four hundred poor schools in Rome alone. There are also in all large towns in the Papal States, Lyceums, or institutions for the instruction of youth. And there are seven Universities in the Papal States, as many as there are in Great Britain (where, by-the-bye, nearly all that exist were founded under Papal patronage), and at which, be it observed, admission is gratuitous.

On a kindred subject, that of gratuitous libraries, we may mention that there is one in London, and hardly any other (except we believe in Manchester) in England, and not one that we are aware of, where books can be carried home. Nay more, an Act of Parliament passed a few years ago, for the purpose of empowering town councils to establish such libraries, has scarcely been taken advantage of. But in the Papal States, and all Catholic countries, there are such libraries, accessable to all.

Well, then, with regard to vagrancy. "To suppress the evil," says Mr. Maguire, "the most vigorous measures have been followed by successive Pontiffs, from the time of Pius IV., in the sixteenth century, to Pius IX. in the nineteenth. Gregory XIII. and Sixtus V., and subsequent Pontiffs, struggled vigorously with the evil;" not by treating poverty as a crime, as Mr. Maguire shows it is treated in this country, and not merely by making

even vagrancy a crime, but, as he describes, "by establishing asylums for the relief of the destitute." And contrasting this with the hard administration of our Poor Law and the sad cases it occasions, no one can deny that with this difficult subject the Papal Government had grappled far earlier and more efficaciously than our own.

"The administration of justice," says Farini, "at Rome is entangled, slow, costly, and uncertain." As if any system of law could be secure against special instances which might sustain so general an allegation. What knew Farini of the "Master's office" only recently abolished; would not that have been a ludicrous pretence for revolution or disaffection? But is it cured even now? Take the following instance from the *Times* the other day. It is a report of a case in chancery.

"Independently of brief pleadings of enormous bulk, a correspondence was copiously referred to which extended in length to 284 brief sheets. It was incidentally stated during the argument that the costs taxed and paid in the suit, the subject of compromise, amounted to no less a sum than 10,045*l.* 18*s.* 2*d.*, from which suit, though commenced in 1832, no money was released from the court until 1851."

"Entangled, slow, costly and uncertain." Could that be a fair or truthful representation of the general character of English justice? Nor is it of the Roman.

Sometimes there are complaints about the delay of litigation in ecclesiastical courts; complaints about as reasonable as the following specimen of the complaints of our Court of Chancery.

"Nearly ten years ago a gentleman named Hartley died, and bequeathed by will, upwards of 100,000*l.* to the corporation of Southampton, to be expended in measures to promote the intellectual improvement of the inhabitants of that town. The will was disputed by distant and dubious relatives of the testator, and litigation has been going on up to the present time in the Court of Chancery. It has ended in the compromise at the recommendation of the counsel engaged on both sides, and the litigants have withdrawn their claims for 22,500*l.*, thus leaving about 78,000*l.* for the corporation; out of that sum, however, the law costs have to be deducted, amounting to nearly 35,000*l.*, and legacy duty amounting to nearly 4,500*l.*; so that all that remains to carry out the dying wish of the testator is 39,780*l.* Much indignation is felt in Southampton, that after the reform of the Court of Chancery, litigation

can last so long there, and its expenses be so enormous. The cost of taxing, that is, reducing the law charges. was nearly 1000*l*."

This indignation is about as reasonable as the denunciations against the administration of justice in the Papal States. Ignorance and prejudice do not see in either case how litigation is caused by obstinacy and stupidity.

But the country is responsible for its laws. And, as to the transfer of land, Lord Brougham has lately stated,

"That a committee of their own House had reported that one of the greatest difficulties with which the landowners of this country had to contend was the state of the law of real property, which led to uncertainty, delay, and expense in the transfer of land, and a consequent depreciation of its marketable value. He also reminded them that the Master of the Rolls, in his examination before the committee, gave it as his deliberate opinion that if the law relating to the conveyance of land had been devised for the express purpose of making land not a marketable commodity, it could not have more effectually answered that end."

This may be true or it may not be ; but it is at least as likely to be true as the corresponding charges against the Papal Government.

So as to a host of other matters, as to which reforms have been long clamoured for. But do these things amount to oppression, or misgovernment?

Take the subject of prison discipline. The *Register* in its review of Mr. Maguire's book thus stated its testimony :

"With regard to prison discipline, Mr. Maguire truly states that the improvement of it, especially of the separate system, dates in Rome so far back as the Pontificate of Clement XI., fully a century and a half ago ; and that England (as well as other countries) has been indebted to Rome for it. 'The separate system has been strictly carried out in Rome for 150 years.' 'The Reformatories, too, which are so recent in this country, are of old date in Rome.' 'The illustrious Howard especially procured a plan of the prison of San Michele for his great work on Prison Discipline.' It is plain, therefore, that when Mr. Maguire states that the prisons in Rome are in 'a state of transition,' he cannot mean from a bad state to a good, but from a good state to a better ; and it is obvious from other passages that the Popes have been, and are, anxious to keep the prison discipline in a state of constant and progressive improvement. If Mr. Maguire had read the late work of Col. Chesterton, which we reviewed some time ago, we do not think that he would have talked of the Roman prisons being in a short time inferior in no respects, save in the

expense of construction, &c., to the boasted prisons of England. In point of construction, the vast means at the disposal of this country may perhaps give it a superiority, and so as to the staff employed, the salaries of offices, &c.; but whenever there is any revelation of what is actually passing in our gaols, it excites horror and disgust. On this subject let us refer to a work (noticed elsewhere) on the condition and treatment of the poor in Ireland. Mr. Maguire speaks with satisfaction of a prison at Cork. We suppose the prison was no better than the workhouse, the atrocities of which appear to have excited the horror even of a poor-law official.

“Mr. Maguire himself states it as his opinion that the Roman prisons will ever be ‘greatly superior in their results to those of England,’ especially in ‘the real improvement of their unhappy inmates.’ He describes the Roman prisons, so far as he saw them, in the most favourable terms. He describes the political prison as ‘large, well-ventilated, and cheerful-looking;’ ample air and light;’ ‘differing from ordinary cells in the great superiority of their size and arrangement.’ So of the prison of St. Michael, devoted to criminal prisoners; and also the silent and separate systems, he says, are carried out ‘within rational and humane limits,’ and of which our own Howard was anxious to obtain a model.”

Here we see that (with reason) the *Register* was rather jealous of the assumption of inferiority implied in the tone of Mr. Maguire. What great reason there was for this jealousy we have shown. For from what we have stated it appears plainly that confinement in our prisons does not conduce to reformation, or to the prevention of crime, but rather to depravation and to the increase of crime. No marvel, when we read what our prisons are, as for instance in the work of Colonel Chesterton, of which there was an interesting review in the *Register*. But would our readers like to have a specimen of an English prison? We quote the *Times*.

“Sir J. Kincaid’s 24th annual report on the prisons of the northern district points out to the serious notice of the Secretary of State, the borough gaol of Newcastle-on-Tyne. This gaol has been stigmatised in so many previous reports of prison inspectors that the Government will be held responsible if the grievance be not abated at once. The confinements in the gaol at Newcastle are ‘of a character more calculated to encourage vice and crime than to deter or reclaim.’ So says Sir J. Kincaid, and the grossly demoralizing influences in operation, caused by defective structural arrangements, have been the subject of severe comment on the part of the local press. It is incumbent on the Secretary of State to



study these reports on prisons, as the grievances brought under his notice must remain unredressed unless the Government interfere promptly and decisively."

And this, notwithstanding the regular visits of "Visiting Justices," and repeated reports of Inspectors, and constant remonstrances in the Press. Here our free institutions are proved at fault. And what is the remedy suggested? Why, a stern and arbitrary exercise of the powers of the Executive. We are not arguing that these things show that England is an ill-governed country, on the whole. But what we argue is, that it is absurd if these are not proofs of ill government, to pretend that Rome is ill-governed.

Again, how does the *Times* speak of our prison system?

"There are persons who assert, after a careful investigation of the various systems which have been provided by humane philosophers for the benefit of prisoners, that they had a thousand times rather fall into the hands of a tyrant of the old school than into the merciful gripe of a thoughtful philanthropist. In the excess of their zeal these gentlemen, who would shudder at a rough blow, or a rougher word, have so nicely calculated the powers of human endurance, and so accurately discovered what a cabman would call the 'raws' of human feeling, that they *only stop short when they have reduced their patients to a state of hopeless imbecility*. There is the separate system, for example, as practised in the United States. Who would not rather be cuffed and kicked occasionally by a robust turnkey than *be gradually converted into an idiot*, in a cell constructed without an angle, lest the eye should experience some relief from resting on its corners? Nothing but heavy silence reigns around; the food needful to support life is passed in silently, and silently the platters are removed. The tenant of the cell is a living corpse; no wonder that in the end reason gives way under such treatment! Then, again, in England we have our crank system, as it is called. Philosophers have found out by a series of careful experiments upon the limits of human endurance, that if a man be kept at profitable labour,—we mean labour which produces a result of any kind,—he can work throughout the day without prostration of mind. Set the same man, however, to turn a crank, when the be-all and end-all of the crank-turning is that the crank is turned, and the labour becomes insupportable. This is one side of the picture;—in other gaols we find criminals petted and spoiled, as though a gaol ought not to be a place of punishment."

Look upon this picture and upon that; upon the English prisons and the Roman, and say which most show ill-government.



There was an able letter in the *Tablet* by Dr. Bowyer, who is perhaps more intimately acquainted than any other Englishman with the history, the laws, the institutions, and the social state and condition of every part of Italy, especially the Papal States, and who, twenty years ago, commenced his career as a legal author by an able "Dissertation on the Statutes of the Italian cities," showing a surprising familiarity with their municipal institutions. That letter is worth preserving; it admirably sums up the case which we have thus, at such length, stated on behalf of the Papal Government.

"You have no doubt seen with surprise the late articles of the *Times* respecting Italian politics, and especially the affairs of the Pontifical States. Those articles would be unaccountable, if we were not fully aware of the ignorance which exists in this country regarding foreign countries, and the way in which topics of Italian politics are constantly used as a sort of makeweight in party struggles in England. But the statements of the *Times* about the Papal Government exhibit an unusual degree of recklessness—and disregard of facts—which could not have been possible, unless the writer had been encouraged by the circumstance which he alludes to in the first sentence of his article of the 4th, namely, '*The long antagonism existing between England and the Papal See.*' This sentence is the key to the whole subject. It seems that the English are ready to believe any assertion against the Papal See, without one atom of truth. And so they are willing to believe with delight, any, even the most absurd statement against the Catholic Church or the Catholic Clergy. Thus, in the very next article we find the *Times* clearly pointing out that the Catholic religion is the one thing to be got rid of in Ireland, and the reason alleged is a remarkable instance of English Protestant feeling. It is that the Catholic religion withdraws the minds of the people from mere material interests and money-making! And the writer does not see that his attack on the Catholic Church in Ireland, is an eulogium on it; and, at the same time, a reflection on the materialism of Protestantism! But any assertion against the Catholic Church is thought weighty and sufficient. Now, let us see what the *Times* says against the Papal Government. It says, that during the last ten years, the States of the Church have been going from bad to worse, and that neither the Ultramontane devotee, nor the 'Crochetty English pervert' deny this to be so. The *Times* here follows the precept of single-speech Hamilton in his infamous book called '*Parliamentary Logic*,' in which he recommends a debater to assert boldly that his opponents admit the very thing that they strenuously deny. The truth is, that the assertion of the *Times* is utterly false, and entirely unsupported by proof of any sort.

“ And what would Rome be without the Pope, and the Papal Court, and the Papal Government, and the Cardinals, and Prelates, and all those circumstances which make it the centre of the Christian world? It would soon be a museum of antiquities, and a deserted town full of modern ruins. The people who call themselves Italian Patriots are, indeed, insane or dishonest, when they denounce the Papacy, which is the greatest glory of Italy, and the only thing that gives to Italy a great power over the civilized world. Julius II. said to the Doge of Venice, ‘there are only two Italian things in Italy, one is your Ducal Cap, and the other is my Tiara.’ The cap is gone, but the Tiara remains, and false friends of Italy rail at it! It is the crown of the most ancient dynasty of Princes in the world. The *Times* eulogises the Roman Republic. But that Republic overturned a regularly established Constitutional Government with two Chambers, trial by jury and a free press. It commenced by the murder of Rossi, the constitutional Minister, and the destruction of a Ministry which contained *only one* ecclesiastic. I say nothing of the atrocities committed under the Triumvirs, the murder of unoffending and blameless ecclesiastics, and the violation of private rights. I will only observe, that after eulogising the Republic, the *Times* says that ‘a heavy debt has been incurred, and there is no advantage, domestic or international, to shew for it.’ I admit the fact. But who incurred the debt? It was contracted by the *Roman Republic*, and the Papal Government has, with enlightened liberality, paid off the liabilities of that infamous predecessor, rather than expose private persons to loss and injury by repudiating the debt. So much for the assertion respecting the debt of the Roman States. But the *Times* goes on to say that the Roman Government ‘cannot manage the finances of the country!’ It is very well to say that; but where is the proof? The fact is, that there is a considerable and increasing surplus above the expenditure. And in the model state of Sardinia there is an enormous deficit, notwithstanding the confiscation of the *private property* of the members of religious houses. The present Minister of Finance at Rome, is a disciple of Sir Robert Peel, and the last tariff is based on Peel’s tariff, on principles of free trade. The result has been a great increase of revenue; and I should have no difficulty in showing that the Papal States are more lightly taxed than any other country in Europe. The Court is the cheapest, and yet by far the most dignified and majestic in the world. The Pope’s household costs only fifteen hundred pounds a year, and the Prime Minister receives a salary of 500*l.* a year. There is no conscription. That great impost, so grievously felt in the Sardinian States, does not exist in the dominions of the Pope. Surely this is a most important exemption, and a great privilege of the subjects of the Pope’s Government, which the *Times* describes as the worst of Governments. Then we are told that the roads are bad. This is a simple falsehood. I will venture to say

from my own observation, that the public roads in the Roman States, will bear comparison with the high roads in England. The *Times* says that the streets of 'every town are infested by ruffians, who make a walk after nightfall dangerous, except when a French sentinel is within hearing.' Now, there are no French sentinels except at Rome and Civita Vecchia ; and I assert, without hesitation, that the streets of Rome are more secure than those of London. In the very same number of the *Times*, we find an account of a robbery in the streets of London, and we see reports of the same kind every day in the Police-courts ; and it is impossible to walk about London at night without being molested in the most offensive manner by sturdy and importunate prostitutes. Nothing of the sort exists in Rome. You may visit the Coliseum by moonlight, and wander through the most unfrequented streets without the slightest annoyance, as I can say from my own personal experience, though there are English travellers in the Piazza di Spagna, who delight in the absurd cock-and-bull stories of daggers and assassinations with which they are entertained by the hangers-on of the hotels. Then I know the anxiety of that Government to make improvements and avail itself of every means of obtaining information of a useful description. The prisons—the revenue—the administration of public affairs—all are improved and improving under a skilful and wise management. The country is improving. The railroads are progressing. And the fact that foreign capital is invested in them, shows that the state of things cannot be such as the *Times* describes it. I have not had time to go into details, but I trust that what I have written will serve at least as a protest against calumny—and will induce your readers to distrust and disbelieve accusations which consist only in appeals to popular ignorance and to sectarian prejudice."

Nor are there wanting Anglican journals, at least there is one, honest and charitable enough to do justice to the Roman Government and rule. This is the *Union*, in which lately appeared the following, as to the government of Rome.

"An atrocious letter, as from a private correspondent at Turin, appeared in the *Times*, which seems to be one of a series from some Mazzinist hand on the affairs of Italy, and Rome in particular. It is stuffed with the grossest untruths ; but we dare say they will all go down with the greater part of its readers. For instance, the Pope is said to reign through the agency of foreign bayonets ; it being well known that the Pope himself desires them—or at least a large portion of them—to be removed ; and that the late difference between his Government and that of France has mainly arisen from the fact of the French having reinforced their corps, and of their fortifying Civita Vecchia. Again : it is

impudently asserted that the 'clergy govern the country to the exclusion of 3,000,000 of lay subjects;' whereas late returns have shown, and it is notorious enough to all who interest themselves about Italy, that out of nearly 3,000 functionaries, barely one hundred and thirty are clergy, and of these many are in lay orders. The people are said to be overtaxed; whereas they are the lightest taxed people in Europe; and there may be said to be scarcely a pauper, except those who are voluntarily so, in the whole States of the Church. The same correspondent proceeds to make a series of the most ludicrous misrepresentations of the state of education: of the popularity of the present Pope; of the finances, which are really prosperous; and of the moral condition of the people, which is far above the average of other states, and ends by declaring that the people are ripe for rebellion; for 'the priest having to defend the interests of heaven, knows nothing of those on earth; having no family, the prosperity of his country is of little importance to him: separated from society, he cannot know its true wants: with him the *esprit de corps* overrules the spirit of nationality'—all which lying rhodomontade is stolen from the commonplaces of the assassin and infidel party in North Italy; but which, now it would seem, the *Times* adopts as its own. Cardinal Antonelli has the generosity to let this mischievous stuff be published in Rome: we wonder how any decent person can let it lie on his breakfast table in London."—*Union*.

Now this short statement (so highly creditable to the sense, the candour, and the good feeling of the Anglican journal in which it appeared) sums up, as will be seen, the view which we have at so much length and with such weight of proofs and illustration, endeavoured to establish. That view is, not merely that the Papal Government is not "the worst" (however in a certain sense it may be the weakest) in the world: though that is all we were called upon to establish in answer to the charge made against it. The accusation is that it is the worst, and that it is a model of misrule. It would be sufficient in answer to this to show that it is not worse than the Governments of any other countries. And at all events, it would be conclusive to show that it was not worse than the Government of Great Britain, which we should have proved abundantly by showing that the charges against the Papal Government are not an hundredth part so numerous, or so serious, or so well grounded, as those which have been made against the Government of England.

But we have not confined ourselves to this. That we have

done so much is true ; but we have done far more ; for we have proved that none of the charges against the Papal Government are *true at all* : while they are all to a great extent true as against the Government of this country, at least as well founded as they would be against the Papal Government, even assuming the facts stated to be true. For, be it observed, our argument has gone further even than disproving the charges made ; so far as they were capable of being disproved. We have shown that even were they true, they would not establish a case of bad government. Nor has our argument rested even there, nor could we condescend to confine it within such narrow limits, for we have proved upon the fairest testimony that the Papal Government is not only not the worst of Governments, but that it is in all probability the best. This in fact was far easier to do, than to grapple with the vague and general charges made against it, which are such as to evade all the refutations of evidence and escape all tests of truth except processes of comparison ; or positive proofs of a contrary theory. And the necessity for resorting to all these modes of establishing our case has obliged us to make so unusual a demand upon the reader's patience. We appeal to their kindness and their candour (whether they are Catholics or Protestants) to excuse us.

That individuals may be guilty of delays, dishonesty, or abuses, in the Papal States, or anywhere else, is of course self-evident. But are these individual acts proofs of misgovernment ? That cannot be, unless ours is the "worst of Governments : " and abuses are not abuses of the Government unless a part of its system : or sanctioned or carried out by the government. No attempt is made to prove this of the Roman Government. Indeed, no definite or specific charges of abuse are made at all : and all along we have seen that the main reliance of its assailants is placed on the modern prejudice against clerical government, which it is assumed must be bad ; in defiance of all history and all experience. Thus Mr. Maguire speaks of the "practical and successful efforts of Pope Pius IX. towards a steady reform in the system of prison government." "This," said the *Register*, "might be supposed to mean that the system of management was changed ; but it is plain, from other passages, that what the author meant was rather a change in the actual administration." The *Register* made some just remarks on this head.

“ He himself describes the system of prison discipline passed a century and a half ago, and even the construction of the Roman prisons, as perfect, and as studied by Howard as models of what prison construction and prison discipline should be ; and the change effected by Pope Pius IX., as he elsewhere mentions, was rather in the persons charged with the administration of the system, in substituting religious for stipendiary seculars. Now this, so far as it is a change, is a change certainly not in accordance with the modern notions of ‘ progress,’ and is probably—indeed, we might venture to say, certainly—only a recurrence to mediæval ideas—at least, to ideas which have notoriously always been encouraged by the Church, and, above all by the Holy See, and the abandonment of which was doubtless owing only to the disturbing causes to which we have referred. The modern notion is, that lay rule and lay administration are superior to ecclesiastical. Mr. Maguire, in mentioning the change just adverted to, shows how vastly superior the religious rule is to the secular, and, above all, to the mere stipendiary ; and elsewhere, in dealing generally with the comparative merits of lay rule and ecclesiastical, he does not disguise his opinion that (as one might suppose *a priori*) the ecclesiastical is likely in general to be the best. This certainly was the opinion of laymen in the middle ages, as we may gather from the common saying that it was ‘ better to live under the crozier than under the banner,’ and from the fact that sovereigns were always anxious to secure the services of churchmen as statesmen, and that, by the confession of Protestants, England was never better ruled than by Wolsey, France by Richelieu, and Spain by Ximenes. But all this is directly in antagonism to modern ideas, and a recurrence to mediæval ; so that the only ‘ change’ on the part of the Holy See is simply a recurrence to that which has always been its own policy, and which in this, as in every other instance, will be found to have been the best, and from which it had been forced to depart simply by external causes, over which it could not exercise control ; especially, the convulsions arising out of the French Revolution. Thus, then, we find that, so far as the Holy See has been left free to pursue its own policy—whenever it has had that power, without which there can be no responsibility—it has ever pursued, in its temporal rule (as might surely be confidently expected, considering its Divine Foundation and its Sacred Function), a course at once wise and liberal, merciful, beneficent, and humane. And if ever there has been imperfection in its administration, it will be found to have resulted from external causes, and from the aggressions of hostile powers. Pius IX., therefore, in pursuing as far as possible a similar course, has only followed the example of his predecessors—he has emulated their labours, and has encountered their obstructions. Mr. Maguire, consequently, has, under every head of administration, in every field of enterprise, and in every department of charity, simply to show that the present Pope has



sought zealously to carry out the objects which Pontiffs in former times have had in view. If he has been sometimes less successful than others, it has been because he inherited the difficulties produced by the disasters of other times; if he has sometimes seemed to effect greater improvements, it has been because he has been relieved from obstacles which prevented the realization of the policy the Holy See has always desired to pursue, and which he has thus been enabled to pursue."

Thus the Papal Government is neither exempt from the possibility of abuses in administration, nor elevated above the possibility of improvement. But as to the existence of any administrative abuses one is left wholly in the dark. The assailants of the Papacy *prove* none. And we can only argue the question of administrative abuse by hypothesis. It is a most remarkable fact which we earnestly commend to the attention of our readers, that, as we have already stated, all the charges against the Papal Government are so vague and general that they can scarcely be grappled with: and that there is not to be found one single case, in any degree distinctly stated and attested, of any grievance or injustice suffered in Papal States, while under Papal rule. We can confidently assert this, having searched diligently all the books and articles that have been written on the subject; while on the other hand we have made a small selection in this article from an enormous mass of cases, authenticated and regularly published reports of proved injustice, grievance and cruelty perpetrated daily in this country. And again, every impartial layman who has been to Rome—St. Aulaire, Rayneval, Courcelles, Lesseps, Maguire, Bowyer—have testified in favour of the Papal Government.

It is impossible that there can be any fairer judge of the Papal Government than a Catholic layman, French or English. And every independent French or English layman has spoken well of the Papal Government. Such, for instance, as Henry Winston Barron, who has told the truth in a most valuable pamphlet entitled "*Queen Victoria and Italy*;" not retailing what he has heard or read, or received "upon unquestionable authority," like "our own correspondent," but stating what he has seen with his own eyes in "three visits to Rome, each of some considerable duration, and at considerable intervals."

Sir Henry Barron is a man of sense, spirit, and independence, who as a member of parliament some years ago,



bore a high character. What account does he give of the Papal Government? "There is no branch of the administration," says Sir Henry Barron, "which the Pope has not reformed or improved." And what of the general results? "There is no people in Europe so lightly taxed, where education is so carefully attended to, where the poor are so kindly and paternally provided for." He has reduced the duties on foreign comforts, commenced three railroads, and completed one of them; established public bakeries, model lodging houses, and electric telegraphs; lighted Rome with gas (granting a charter for that purpose to an English company), constructed new bridges, viaducts, and roads. He has increased the customs receipts during the last few years; he has increased the number of laymen in the government; he has added to the public schools in Rome. Imports and exports increase, depositors in the savings' bank increase. The income exceeds the expenditure; and the national debt is so small, that four years' income would pay it off.

Such is the latest, the most impartial testimony as to the character of the Papal Government.

The truth is that the complaints of Papal *misgovernment* really involve themselves into dislike of Papal Government, and are mere pretences to cover hatred of the Papacy. Thus, as the *Register* says, speaking of the Article in the last Quarterly, on the "War in Italy."

"The writer is evidently prepared to be as much of an Italian revolutionary as Lord Palmerston and Lord John Russell. He admits that France has no case against Austria, but seems to regret that England has not adopted a more French and less Austrian line of policy, and as an illustration of the mode of feeling towards the Holy See, we will give one or two short extracts.

"We trust, and we venture to believe that Lord Malmesbury is alive to the gravity of the Roman case, and to the *utter impossibility of reconciling clerical dominion over three millions of men with peace, law, or order.* It may be that the obstinacy and power of the Latin priesthood, diffused through so many countries, may avail to darken the views or to prevent the efficient action of the European Powers in this vital subject. But let there be no mistake; if an influence so hateful shall be exerted and shall succeed, the effect of the success will only be to drive into the sphere of religion itself that discontent which is still in a great degree confined to civil matters. The Gospel itself is no Gospel, it is no message of peace, but a message of strife, stagnation, imbecility, and anarchy, in the eyes of men who see it blazoned as a plea for the maintenance of a Gov-

ernment wholly and hopelessly impotent for its proper ends, and involving in its fundamental idea an inversion of the natural order which is justly felt to be intolerable.....If, again, the bigotry and craft of the Roman Court, working upon the susceptibilities of a religious party, shall induce the Powers of Europe to adopt in the States of the Church a superficial instead of a drastic mode of treatment, then even the best arrangements for the rest of Italy must fail.' ”

Here we see that exactly as in the article of the *Times*, or the letters from Turin, the real object is the subversion of the Papal Government, *not* on account of proved oppression, but because in the idea of haters of the Holy See, its rule must be incompatible with peace or liberty. It is because the Government is clerical, i.e. Papal, that the Quarterly declares it incompatible. It avows that it never could abide a Papal Government at all. It were a marvel if it could. How could any Protestant organ approve of the Papacy? And as we have often said, the Pope's temporal sovereignty rests on the spiritual supremacy, and exists but for its sake. Necessarily, therefore, it is a religious question in that point of view, and naturally enough Protestants regard it in that light alone, and hence with them it is a polemical and not a political question. Although they profess to deal with it politically, they are thinking all the while polemically. Hence they want no reforms or improvements. What they wish is to destroy the Papacy. But then that very feeling utterly prevents their taking an impartial view of the subject, and renders worthless all their opinions about it; to judge at all fairly of the Papal Government is next to impossible, for those who believe the Papacy an imposture. How is it possible in human nature? To treat the question logically, the Papacy must be assumed to be of Divine origin, for the Roman people believe so. But we know how little able the mass of men are to make their logical assumptions or to argue by hypothesis. They begin by assuming the Pope to be an impostor, and easily come to believe him to be a bad ruler.

And thus the last “Edinburgh Review” speaks of the States of the Church as a Protestant might be expected; though there is one passage in which, as the “Register” remarked, truth strangely forces itself upon the writer,—

“Nor is anything to be obtained from the Papal Court, and especially from the present Pontiff, by violence. Rome knows that her spiritual strength is never greater than in the extreme of phy-

sical weakness. When pursued she takes refuge as it were on another element, and at the very moment when the Pope may be driven from his own territories, he retains a power superior to that of every state which acknowledges his sway."

Yet the writer goes on to rail at the Church as "the great engine of superstition and despotic government." This is the sound old Protestant tradition. How on earth can those who hold it take a fair view of the Papal Government? All through their ravings on the subject there was the assumption, in defiance of all history, that a clerical government must be inimical to liberty, because it is clerical. Very likely, in their notion of liberty. The fallacy is in making their idea of liberty absolute and infallible; which is itself intolerance. Liberty of thought can never be denied. Liberty of action must be always limited, and no government can allow liberty of destroying it. The haters of the Papacy fancy it their duty to destroy it, and revile the Pope for not allowing them to use Rome for the purpose. This is what they mean. In no other sense do they, or can they, pretend that Papal rule is opposed to liberty.

It is indeed almost too much to expect that the Papacy should be impartially judged by the English people. As the *Tablet* once observed:—

"It witnesses indeed the weakness of the See of St. Peter in some of its political aspects. It sees that the head of the Pontifical States is monarch but of a small territory, that he does not 'go in' for an army and a fleet in the onward race of the politics of Europe. That he is poor, that industry is limited comparatively in its energies, exports of produce and imports of fabrics in and out of his dominions contemptible by the side of the colossal fortunes, and mileage of tall chimneys, the tons of cotton, the argosies of gold that swell the plutocratic pride of Great Britain. But that powerful country neither sees the causes of his weakness, nor, still less, does it read the secret of his power."

Nor could it recognize it even if it did; how can it recognize the worth of what is really based upon the Catholic religion? To quote again the *Tablet*.

"In the persons of SS. Peter and Paul *that religion established itself in Rome*. Its head-quarters, if we speak of the Church as an army or a polity, were, in that point of view, instinctively *planted in the Imperial City*. For political purposes, would the statesmen of this land and time, by a divine intuition, would the Catholic

reasoner assert, the body which has remained there and been ruled by unbroken apostolic succession, found in the capital of the world a suitable earthly home? Not only its own proper religious sway over the consciences of its subjects, but over and above this, temporal dominion, and even, for a while, world-wide temporal influence, were bestowed on the Catholic Church. Power was given it, not certainly for 'political convenience,' as it is understood to-day, but by the free hand of potentates who had no superior to fear in this world. That power was awarded, not from religious sentiment or enthusiasm (if people will have it so) alone, but from an instinct which actuated those potentates, even if we deny to them the more just attribute of a deep and wise political foresight. Territory was given to the patriarchs whose lot had fallen in Rome, the soil which they had saved from ruin and misery, and for subjects those whom they had redeemed, fed, educated—whom they may be said to have 'made' out of the dust and ruins of the collapsed and putrefying mass, the fallen empire. Christianity called together the poor, the halt, the lame, the blind. The Catholic Church arose among such. It infused life and vigour. It made healthy, it developed new and energetic people out of what must have given, at first, so wretched a promise. It made heroes out of them, and it made saints and apostles, such as Gregory sent to make free and happy the race of those children whose blue eyes and suffering expression had smitten his heart with compassion in the slave market of Rome."

But all this is forgotten, with the vast debt which England owed to Rome; and not only so, but it is turned into hatred of the religion of Rome. And to the minds of men prejudiced by this feeling the weakness of Rome is a sufficient reason for despising it, and the disaffection of many of its subjects a sufficient ground for destroying it.

"As to weakness," says the *Tablet*, "let us ask any of the present monarchs and emperors of Europe or the East, which of them has a title so old, so stable, as the successor of St. Peter and Gregory? Other empires have grown up under their feet, and if these have arisen out of vigorous races of men with life comparatively before them, they should remember that the Popes succeeded to the empire such as it remained, while the ancestors of the former lived tattooed in the forum. The weakness of the Popes has grown from the revolt of the nations against religion. The decay of their temporal power has followed very naturally on those unceasing efforts made by the once faithful courts of Europe to circumscribe their authority, and by every possible means to infuse a worldly spirit into those who exercised it in their names. Is it to be wondered at that the Italian people, who owe everything down to their very existence, as nations, to the Popes, should not be proof against such efforts as have been thus made for three centuries, to say

nothing of the oppressions and miseries caused by German emperors before? Well may lovers of beautiful Italy lament that she was not stronger or less fair. She has been the prey of hungry foreigners, and in the Popes alone has been her refuge in the hour of oppression. Weakness has been induced, and the development of the energies of the Pontifical States hindered, in every possible way, *from without*. If fruits of such treatment appear from time to time in the world's history is it astonishing? Is it not a wonder that the Popedom should exist after the traditionary state of persecution which it has suffered?"

Considering what the Holy See has had to encounter, the wonder is that its temporal dominion should have endured a thousand years. We have seen in our own days how its soil has been occupied against its will by the troops of powerful states, and how its subjects have been seduced by insidious intrigues. No other government could have endured so much and have ruled so wisely and so well.

Its laws and institutions are in many respects vastly superior to our own; and, to sum up, all the charges against Rome really resolve themselves into this, that it is the government of the Pope; and they all originate in hatred of the Papacy, as the head of the Catholic Church.

The present crisis in Italian affairs renders it a matter of the highest duty on our part to use every effort to disabuse the public mind on the subject of the real condition of social affairs at Rome. We venture, in discharge of this sacred obligation, to incur the risk of being charged with prolixity and unreasonable detail; but it seems to us that it is only on a searching detail that we can rely for accomplishing our object; and we have to regret our inability to have made more use, for this purpose, of the recent and very important pamphlet of Sir Winston Barron, a most trustworthy eye-witness of the real condition of affairs in the Eternal City.

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ART. III.—*The Life of Michael Angelo Buonarotti*, with translations of many of his Poems and Letters. Also Memoirs of Savonarola, Raphael, and Vittoria Colonna. By John S. Harford, Esq., D. C. L., F. R. S., &c., &c. 2 Vols. London: Longman, and Co., 1858.

THE causes which worked together for the destruction of the civil Empire of Rome, have rarely been found in league before or since that destruction was completed. Some empires have died from the decay of public spirit; others from corruption of morals; others from the decline, or even from the excess of military virtue; and others from an original vice of constitution: but almost every cause that was concerned at any time in the fall of an empire, or in the debasement of national character, had to do with the fall of ancient Rome. And yet, without any particular reference to the spiritual supremacy, in virtue of which Rome is what she is, it will be true to say that the tradition of empire has never left her, nor has the character she stamped upon her provinces been ever quite effaced. The captivity of Rome, to the language and civilization of Greece, fatally justified the foreboding of Cato the Censor: and the empire of fashion, it was, that made possible the tyranny of the Cæsars. Then came from Pontus and Alexandria that deluge of Eastern corruption, the avenger of Mithridates and the Ptolemies. The Orontes poured himself into the Tiber; and all the impurities of the world were discharged upon Rome. Still the Roman character was not destroyed. Its natural strength and soundness rejected or worked off much of the poison. A Roman never could become more than half a Greek. True, he might speak Greek with more or less of a brogue, or he might even have acquired purity of accent with a finish in vice at Athens; but he never could equal the frivolity, meanness, and cunning of his teachers, however closely he might imitate them. And it is to this radical difference of constitution between the Greek and Roman character, that we trace the different fate of the Greek and Roman Empires. In the Greek character, finely organised and tempered as it was, the moral diseases incident to civilization, found little or no resistance, because the virtues of the Greeks, like their liberties,



were artificial, and protected by purely artificial defences and restraints. Hence it is that the Greek theories of government and laws, though apparently founded on the most austere virtue, have had no appreciable influence upon modern government or legislation. The code of Solon or Lycurgus, is as little consulted now, for practical purposes, as the laws of the Brehons; while the institutes of Justinian, are almost as much the law of Europe, at the present day, as when the Prætor sold incumbered estates under the spear, and Cicero was counsel in an action "*Repetundarum*" before a special jury of Roman knights. Rome, through neglect or respect, failed to impress her own character upon the Greeks. Emulating their refinement and their vices, she did not care to alter what she copied, and beyond stripping their temples of the masterpieces of Zeuxis and Apelles, or levying occasional contributions, in money and kind, she treated Greece with a certain tenderness; and for their own misfortune, the Greeks have remained Greeks ever since. The action of Rome upon her other provinces, was different. Spain, France, Africa, and Britain, became so completely Roman, that without exterminating the race in each country, you could not change its character. In Africa and Britain, the race was exterminated, but in Italy, Spain, and France, the Roman population absorbed the succeeding floods of Goth, Hun, Frank, and Lombard; converting them into its own nourishment and substance, without loss of religion or of language. In Italy, as might be expected, the sap of the Roman character was raciest, and flowed most freely from the old root to feed its numerous saplings. Far otherwise was it with Constantinople. The Greek State pretended to govern in the name of Rome, but the chiefest title to govern was wanting. New Rome had nothing Roman in it, and, in the Eastern Empire, instead of throwing out fresh shoots at every stroke of the knife, starved and pined from age to age, and from year to year, until it withered quite away. And never was the vitality of the Roman character more conspicuous than at the very moment which witnessed the fall of Constantinople. Some of the Italian republics had already grown to the dimensions of empires; Venice was as great as Carthage, and Genoa was the rival of Venice. The less important states were prosperous and independent, notwithstanding constant war



and revolution, while the arts that had never ceased to degenerate in Greece and Constantinople, advanced in Italy with a steady and wholesome growth. The revival of letters in Europe, and especially in Italy, has been very commonly ascribed to the fall of Constantinople, which, it is said, unlocked the treasures of Greek literature, and scattered them over the West. The fall of Constantinople, and the consequent diffusion of Greek literature most probably did quicken the revival, but it had long been in progress, however gradual, from the mere energy and reparative strength of the Latin mind. The Romance languages, which may be called the vulgar Latin of the time, were hardly more different in character from grammatical Latin, than is the language of Chaucer from that of Pope or Byron; while the grammatical Latin itself never had, and never has, ceased to be a written, and for many purposes, a spoken language. Purity of style in Latin, at the period the only language of literature, had been for many years as much studied by the writer, as grace, spirit, and correctness were cultivated by the Artist. And as if the wars and seditions of the foregoing ten centuries had been intended to labour and open up the Italian mind, it was just about the period of the revival that Italy had attained the highest degree of prosperity and peace she had known since long before the days of Attila. "For it is not doubtful," says Giuccardini, "that since the Roman Empire, weakened principally by the corruption of the old Roman morals, began more than a thousand years ago to fall away from that grandeur to which it had attained, by miracles of virtue and fortune; never had Italy enjoyed such prosperity, or known so enviable a state of things, as that in which she securely reposed about the year of salvation 1490, and for some years before and after. For, having everywhere settled into profound peace and tranquillity, with her soil cultivated, not less in the most mountainous and sterile places, than upon the plain, and in her most fertile regions; being subject, moreover, to none other than her own children; not only did she abound in men and in riches, but adorned as she was by the magnificence of numerous princes, by the splendour of the noblest and most beautiful cities, and by the supreme chair and majesty of religion; she flourished in the number of her eminent politicians, as well as in genius ennobled by every science, and by all

the liberal and industrial arts ; and having also her share of military glory, according to notions of the time ; thus richly endowed, she maintained a great name and illustrious character amongst all nations.\* It was at this period of Italian history that Michael Angelo Buonarotti, the subject of Mr. Harford's Memoir, was born. Without too minute an assignment of dates, this, it may be said, was the age of Dante, Petrarch, Ariosto, Sannazaro, Vida, and others, the fame of any one of whom would be sufficient for the glory of a country and of an age. But along with accomplished politicians, elegant scholars, and great writers, the genius of Italy, responsive to the beauty of her sky, of her soil, and of her faith, inspired a family of artists, the like of whom the world had not yet seen : Raphael, Titian, Michael Angelo, Guido, and many more, the glory of Christianity, the last boast of civilization, but the more peculiar pride and crown of Italy. Nor had they, according to the common fate of genius, to struggle with poverty and neglect. Prince vied with prince, and merchant strove with merchant, to discover and to cherish every spark of genius in literature or in art ; and to the most magnificent prince of them all, to Lorenzo de Medici, it was given, to foster and develop the greatest genius, perhaps, that the arts of sculpture, painting, and architecture have ever known.

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\* Perche manifesto è, che dopo l'imperio Romano, indebolito principalmente per la mutazione de gl' antichi costumi, cominciò già sono piu di mille anni, di quella grandezza a declinare alla quale con maravigliosa virtù e fortuna era salito, non haveva giammai sentita Italia tanta prosperità, nè provato stato tanto desiderabile, quanto era quello nel quale sicuramente si riposava, l'anno della salute Christiana MCCCLXXXX e gli anni che a quello, e prima e poi furono congiunti. Perche ridotta tutta, in somma pace e tranquillità, coltivata non meno ne' luoghi piu montuosi, e piu sterili, che nelle pianure, e regioni sue piu fertili, ne sottoposto ad altro imperio che di suoi medesimi, non solo era abundantissima, d'habitatori e di ricchezze, ma illustrata sommamente d'alla magnificentia di molti principi, d'allo splendore di molte nobilissime e bellissime città, dalla, sedia, e dalla maestà della religione, fioriva d'huomini prestantissimi nell' amministratione della cose pubbliche, e d'ingegni molto nobile in tutte le scienze et in qualunque arte preclara et industriosa ; nè priva secondo l'uso di quella età, di gloria militare, et ornatissima di tante doti, oppresso a tutte le natione fama chiarissima ritineva.—Hist. D'It. Lib. I.

Mr. Harford has undertaken to write the life of Michael Angelo, but not in a genial or an understanding spirit. It is not to be looked for, that a Protestant, however liberal, should write as a Catholic; but it does so happen, that men of large and well stored minds are sufficient judges of cause and effect, to estimate with some degree of fairness, the social and political influences of a religion and of its professors upon a given age. They feel it beneath their dignity to drag in religion by the hair, as the French would say, upon all occasions, or to harp upon one string in and out of tune. If by a vice of early education, an expression not of the highest breeding should escape them, it is a thing of rare occurrence, and for want of advertence; but they never condescend to the habitual use of strong language or of nicknames from the "*Morning Advertiser*." And where, as often happens in England, a man of taste and learning applies himself to the study of a particular period, life, or art, the study seldom fails to make him cautious, forbearing, and discriminative. This is nothing more than natural, for should feeling and taste carry you to the study of one epoch or of one art, you will endeavour to appreciate with exactness the influences which affected the epoch or the art. The real student will not go to universal biographies or historical dictionaries. Still less will he take his opinions upon trust from those who cannot account for them, but he will be just and even generous in proportion to the goodness of his heart and the completeness of his studies. Happily we are not without evidence of this in the Protestant literature of the day. Roscoe, Maitland, Miss Strickland, and Helps, are of the class just alluded to, nor can any man deny that they endeavour, at all events, to collect the right evidence and to judge fairly by it. This does not seem to be the case with Mr. Harford, and it is the less a matter of regret, because his prejudices have not spoiled a style that has anything very attractive in itself. While professing a great admiration for art and for Michael Angelo, Mr. Harford seems quite unable to feel, or even to understand the influences from which art and Michael Angelo derived their inspiration. He makes everything a question of Protestant and Catholic, claiming, of course, all that is good for the one, and ascribing everything vicious to the other. The book itself appears to be written far less as a biography of Michael Angelo, than in support of the author's theory, that the

revival was the parent of the Reformation, and that all the great men concerned in the revival were Protestants, more or less. Accordingly, the narrative is broken by detached notices of Savonarola, which have the least possible connection with Michael Angelo or his art. Mr. Harford's, like many other theories, is quite susceptible of ingenious, if not of conclusive demonstration. In truth, it is one which would be accepted without challenge by many Catholics, who in this matter, as in some others, exemplify that meeting of extremes, which is perhaps the strongest argument against their theories. The Abbé Gaume, for instance, in his horror of classic paganism, does not hesitate to trace the Reformation to the extravagance of the revival; and many of the facts adduced in support of his theory, do seem to lend themselves to its support in the first instance. If, therefore, Mr. Harford had thought it worth his while to write an argument in proof of his theory, no reader would have reason to complain; but it is infinitely disappointing to find the life of Michael Angelo converted into a text for a quasi polemical treatise. It is a violation of that literary neutrality which has of late years been so gracefully acknowledged, to invade and occupy the quiet territory of art with religious controversy. If any one ever pretended that the Reformation, which certainly made its chief conquests during the age of Michael Angelo, had any influence one way or the other upon art or its history in Italy; or had it ever been maintained that "Romish corruption" delayed or obstructed the revival of art or literature in Italy, the corruption of Rome would have a distinct application to the history of art; but it has never been alleged that such was the case: and even those who treat the Roman faith as sensual, and as too frequent in its appeals to feeling and imagination, are forward to admit that its influence upon the liberal arts has been vivifying and inspiring. This, in itself and apart from higher interests than those of art or letters, is but small praise, and yet it should not be left out by the philosophic historian of art. Can it be doubted that the Roman Church influenced, in a large degree, the formation of the Romance languages by her resolute adherence not merely to the Latin Liturgy, but by her preservation of grammatical Latin, as the universal language of the clergy in the nations of her communion for the purpose of correspondence whether written or oral? Is it disputed that the general use

of Latin, such as the Latin was, in the schools and amongst the writers of the Middle Ages, not only facilitated the revival, but made it possible? Does any one who knows anything deny that the writings of Bernard, Anselm, a Kempis, Gerson, Thaulerus, Martin of Tours, Scotus, Bede, Jerome, and the whole race of schoolmen and ascetics, by making the use of Latin, familiar, universal, and indispensable amongst the learned, kept the way open for the revival: and that by their vigorous discussion of purely intellectual question they held the mind of Europe awake, active, and prepared? From the time of Whately, at all events, no one has ventured to question the correct appreciation by Rome of the Aristotelian logic, which she alone revived, which she alone never gave up, and beyond which no single step has been made in the science of logic, since the reign of Alexander. Whatever may be said now by controversialists regarding the use of Latin in the Liturgy, the event has shown that its maintenance by the Church, not as its Liturgy merely, but as its language was of the highest policy. Again, the adoption by the Church, of the Code of Justinian, and its incorporation with the decretals into one body of civil law, gave to the Latin and German nations an unity an uniformity, and, so to speak, a Latinity, which prepared them still farther for the revival, the entire credit of which, if they could contrive it, writers of Mr. Harford's stamp would appropriate for their favourites. No doubt it may appear at first, to some, that it would have been a simpler and more rational plan for the Church to have given to her converts, a Liturgy in German, Dansk, Lombard, Ostrogothic, or Saxon, according as barbarians of those languages overran the empire. Oftentimes, however, as Lord Coke says, "*Compendia sunt dispendia, et melius est petere fontes quam sectari rivulos.*" Supposing it possible for the Church to have done what has been required of her, supposing that the Latin Church, instead of drawing the converts into her own body and her own speech, had given them vernacular bibles, and vernacular Liturgies, with priests and bishops of their own tongue merely; it is not difficult to estimate how small a portion of Latin would have entered into the composition of modern languages, and how completely the knowledge of Latin would have been extinguished in Europe. Indeed, this is hardly matter of calculation;

for we have it upon good authority, that in Saxon England, owing to the interruption of her relations with Rome, and the dispersion of her religious communities by the Danish invasion, the clergy had become so ignorant as to be unable to construe the canon of the mass. If then we suppose the Latin language to have fallen into absolute disuse all over Europe, it is plain that nothing like the revival could have taken place, inasmuch as Latin would now be as little known amongst us as the ancient Etruscan. These are considerations that would not fail to occur to the philosophical historian of the period, whatever might be his opinion as to the general influence of Catholicity upon civilization ; provided always he were to deal with the matter as an inquirer, and not as a theorist. Still, if the revival had met with opposition from the Church or Court of Rome, or had it been only grudgingly supported by them, or had it been carried forward by the Reformers in opposition to discouragement from Rome, the circumstance would have been very legitimate matter for comment by any one professing to estimate the influences under which the revival, of which Michael Angelo is so conspicuous a feature, took place. But if, on the other hand, the revival met with an encouragement equally munificent, and enlightened from the Church and court of Rome, if it owed to Rome its principal fosterage, and derived its chief impulse and inspiration from the same source, the circumstance is one which ought to be noted ; and it certainly does not appear what immediate or even remote connection the alleged corruptions of Rome, and the suspected inclinations of this or that distinguished man to the reformed doctrines, could have with the history of Michael Angelo. Again, if it be found that the failure of the Reformation was most complete in Italy, where the revival prevailed, or in Spain, where civilization was farthest advanced, while the conquests of the Reformation were confined to districts of semi-barbarous France, and of more than semi-barbarous Germany and England, the fact is certainly noteworthy, as a curious phenomenon if nothing more. A still more singular circumstance is it, that as soon as the revival, which had been shut out or interrupted by the Reformation, was extended to any country, the Reformation ceased to advance, and most commonly lost ground. Nothing of all this, it might



be said, ought to be introduced into a life of Michael Angelo. Neither ought it, in our opinion; and we have referred to it merely as showing how unfair it is to import into a neutral subject matters of controversy to which these circumstances furnish at least a *primâ facie* answer. It is of course an easy expedient to abuse the Jesuits, and to quote Pascal against them as a Catholic authority, if there be any occasion to refer to them at all in connection with Michael Angelo; but the fact remains undisputed, that the continuation of the revival was committed to the Jesuits, and that wherever their elegant scholarship made its appearance the Reformation disappeared or stopped short. Still the life of Michael Angelo must be made to do service as a text for homilies upon the corruption of Rome and justification by faith alone. Seeing, therefore, that those matters have found their way into the life of Michael Angelo, and that we are obliged to do the best we can with them, one is tempted to ask whether with or without reference to Michael Angelo Mr. Harford's statements are tolerably accurate. It does not appear that they are, although it must be admitted that most of what he says is commonly assumed to be true by writers of his class. The relaxation of discipline for instance, which prevailed about the time of the Reformation, and to which the Council of Constance had already applied a remedy, is assumed without hesitation to have been one of the causes of the schism; and the revival, in which Michael Angelo took so great a part, is said in open defiance of all fact and truth to be another. Then it is tacitly assumed that the corruption of morals and decay of religious fervour, which to a certain and too great extent did prevail at the time, were properly chargeable upon the Church alone, and not in fair proportion upon the political and social institutions of the period. Some of Mr. Harford's assertions in these particulars are nakedly and absolutely false, and others extremely doubtful at best. To do Mr. Harford justice, it must be said that Catholics themselves have been drilled into the belief that the Reformation did originate in corruptions and abuses, that had reached their height about the time of Luther. It would require, however, a not very intimate acquaintance with the history of the Middle Ages to know that there had existed corruptions and abuses of at least as formidable a character at other periods; and that more than



one of the fathers, including St. Bernard, the last of them, has drawn pictures of the state of things existing in their time, which disclose corruption and abuses as grave and as universal at least, as any that were denounced by Savonarola. But those very declarations by the fathers, and the constantly recurring decrees of councils, what are they but the standing protest of the Church against the abuses for which it is sought to make her exclusively responsible, and which so far from having provoked a schism, like the Reformation, most commonly resulted in some great reparative effort upon the part of the Church, in the appearance of a Dominic or a Francis, and in the organization of those religious orders, each one of whom appeared in the fitting season to rebuke and to reform some particular vice of the clergy or of the people?

The fallacy of reasoners, such as Mr. Harford, lies principally in the assumption that every abuse which at any time was in the Church, was therefore of the Church, and formed part of its constitution. The Reformation, therefore, according to Mr. Harford, so far as it operated, was a change in the very constitution of the Church, made necessary and inevitable by what had come to be a vice of its nature. So far from there being any apparent warrant in history for such a doctrine, it really cannot be made to appear, that the admitted abuses prevailing throughout the Church at the time, were in any measure the cause of the Reformation, even treating that event as a judgment and a visitation of Providence. The fact is, that from within twenty years after the death of Christ, heresy succeeded heresy in the Church, as unaccountably to human wisdom, or calculation, as certain weeds affect the cornfield, and others the plantation, although they certainly have no germ, either in the corn or in the tree. Accordingly, we find that some heresies have a far greater measure of success than others, because the circumstances of the time were favourable to their propagation, and thus it becomes easy to account for the spread of Protestantism, without in any degree referring either its origin or its progress to the abuses and corruption of the time. According to the constant analogy of every age of the Church, had the utmost purity and even severity of morals prevailed, in the sixteenth century, a heresy of some kind or another would have made its appearance all the same. In former

centuries the heresy had worked sometimes in the green wood and sometimes in the dry. Sometimes it had been favoured by princes and armies, and men of worth and learning. It had been variously originated by men of austere, and by men of dissolute lives. It had sometimes affected impossible sternness of morals, and at other times extreme dissoluteness. Its success varied with the complexion of the times, and when in the sixteenth century it reappeared, just as might a comet, or any other recurring phenomenon, it met with peculiarly favourable circumstances, not in the corruption of morals, but in the political constitution of Europe, and in the newly discovered art of printing, which facilitated communion of thought to a degree unknown in any former age, and would have favoured the spread of any other novelty, exactly as it propagated those of Luther and Calvin. What we have sketched in the merest outline are the well known views of Balmez; and their development by him is certainly one of the largest inductions, and closest pieces of reasoning, to be met with in modern literature. But, after all, what has this to do with the life of Michael Angelo? Nothing under heaven. Mr. Harford, however would have it so. The connexion seems to exist in his mind only, and it is with his book we are concerned. The life of Michael Angelo is quite another thing. However we were not sorry to have an opportunity of giving our views as to the origin and vital principle of the great revival which has been the subject of so many and such conflicting theories. Lord Macaulay, in his essay upon Machiavelli, ascribes it to the fertilizing influence of the barbarian invasions, which, by a familiar illustration, he likens to the beneficent overflow of a river in the season. M. Guizot appears to treat it as the early stage of what he considers the great insurrectionary movement of the human intellect, commonly called the Reformation, and to which he impliedly links on the modern philosophy of France and Germany. The Abbé Gaume ascribes it to the spirit of paganism merely, and traces to that spirit and to that time all the evils, social and religious, of the days we live in. But to us it seems that the revival was the natural and spontaneous effect of the Great Roman mind, infused more especially into the Latin nations, and residing in Italy as in its heart and centre. We hold, it was not without a special providence that the revival was

favoured and made possible by the preservation of the Latin language and literature, through the resolute will and action of the Roman Church. And lastly, arguing from the fact that wherever the revival preceded the Reformation, the latter never penetrated, and that where it followed the Reformation, the latter, unless already complete, was either driven back or arrested, we hold that so far from having assisted the spread of Protestantism, it was the antidote furnished with the bane, and was the visible preservative of the greater part of Europe from the schism with which it was cotemporaneous. Michael Angelo was born before Italy had attained to that pitch of grandeur described by Giucciardini, and he lived through what is called the Augustan period of her modern history. If his works mark an era in the history of art, he was himself the creation of the time, the country, and the faith, to which he belonged; and the crimes, real or imputed, of the Borgias, the ambition of Julius, the indolence of Leo, the corruptions of Rome, the burning of Savonarola, the execution of Servetus, the protest at Spire, and the organization of the Jesuits, have really no more connection with the history of Michael Angelo or the inspiration of his art, than they have with the feathered pictures of the Mexicans or the Gobelin tapestries. Protestantism claims to have done many wise and beneficent things, but it does not pretend to have inspired a single artist, much less to have created a school of art; and why therefore seek to interfere with the claims of the Roman Church in this respect, unless we can transport the birthplace of Michael Angelo to a Protestant country, and show that his fancy was trained, and his genius fed by Protestant influence, and a Protestant spirit? Let it at least be shown that he and his brethren were courted by reformed princes and bishops; but if their best patrons were popes and cardinals, while their best inspirations were drawn from the mysteries of Christianity, and consecrated to the adornment of her churches, we may assume without much boldness, that they were average good Catholics, and that the architect of St. Peter's was not the worst amongst them.

It is not meant to be said that the two volumes before us do not include the life of Michael Angelo, or that a tolerable biography of the prince of artists might not be compiled out of them. Mr. Harford has, we believe, a real admira-

tion for the great man whose life he professes to write; he appears to have informed himself respectably upon the subject, and not to be altogether deficient in taste and judgment in matters of art. The thing to be regretted is, that they have failed to soften his temper, or open it in the least to the influences that create a brotherhood amongst the students of art.

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Ingenuas didicisse fideliter artes  
Emollit mores, nec sinit esse feros.

Whether Mr. Harford has arrived or not at a true understanding of the principles of any of the arts in which Michael Angelo excelled, we do not of ourselves presume to say, but if we adopt the test of gentleness or good humour, it seems more than doubtful. Possibly in the same way as the temper of Mrs. Todgers may have been soured by the insatiable appetite of her commercial boarders for gravy, so in like manner, the naturally quiet temper of Mr. Harford may have suffered, in the attempt to satisfy the lower intellectual appetites of the English public, which are ever athirst for that wretched filling stuff about Romish corruptions. But let him spice them as strongly as he might, Mr. Harford ought to have seen that his liquids were altogether out of proportion to his solids; and his sack intolerably plentiful as compared with the halfpenny worth of bread. Not to speak of Duppa, or other regular biographers of Michael Angelo, one has more satisfaction from the notices in the *Biographie Universelle*, or from *Chalmer's Dictionary*, than from the bulky volumes of Mr. Harford, with its disjointed narrative, and ill-natured commentary. Symmetry of shape, and harmony of parts, are as essential a quality of good writing as of good painting, and a book ought to hold together no less than a building. There is, it is true, much interesting matter in the volumes before us, especially with regard to the correspondence and poetry of Michael Angelo. The author has himself translated one or two of Michael Angelo's sonnets, nor are the translations by any means deficient in truth or spirit. But again, this part of the book is spoiled by Mr. Harford's unfortunate craze about the Protestantism which he asserts for every one who attracts his admiration. It would hardly be believed were not the book open to inspec-

tion, that Mr. Harford claims Michael Angelo for a Protestant, or something as good, on the ground that there are sonnets of his without an allusion to the Blessed Virgin, or to what, in the slang of the day, are called the distinctive doctrines of Rome. On this principle, the author of the "*Tantum Ergo*," or of the "*O Deus ego amo te*," might be challenged as Protestants, and yet we believe that even Mr. Harford would not ask to question their orthodoxy if he only knew their names. There are undoubtedly in Mr. Harford's volumes, materials for a good book, and more information is to be derived from his life of Michael Angelo, than from any preceding biography. Several of the chapters are sufficiently interesting, and if made to hang together, would be more interesting still. The chapters upon the frescoes of the Sistine ceiling, upon the painting of the Last Judgment, upon the tomb of Julius II., upon the old Basilica of St. Peter's, and upon Michael Angelo's share in the construction of the new, are such as one has pleasure in reading; and although Michael Angelo was always known to have had a cultivated mind, as well as some taste and skill in poetry, that part of his acquirements has never hitherto been so prominently before the English public as in Mr. Harford's book. The way in which sculpture and letters disputed possession of Michael Angelo in his boyhood, remind one of Lucian's dream; but although in this latter instance, the honour of the day remained with art personified by sculpture, literature had still a large place in the affections and pursuits of the artist. It is hardly necessary to say that the author does justice to the noble character of Michael Angelo in morals and religion. His temperance, modesty, independence, generosity, and piety, have been the theme of universal praise; and it might truly be said that the characteristics of his style, grandeur, simplicity, and dignity, were also the characteristics of his life.

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ART. IV.—*The Catholic in the Workhouse.* By Charles A. Russell, Esq., Barrister at Law. London: Catholic Publishing and Bookselling Company, 1859.

**I**T is now somewhere about a year since we endeavoured to draw public attention to the subject of the religious disabilities of Catholics in prisons and other similar establishments. We are happy in believing that the attempt was not altogether without its fruit. Very shortly after the appearance of the July Number of the *Dublin Review*, in the last year, a Deputation of Catholic noblemen and other gentlemen was honoured by an interview with Mr. Walpole, the then Secretary of State for the Home Department; and at that interview the grievances felt by Catholics, both in prisons and workhouses, were fully stated and patiently heard. Mr. Walpole, on that occasion, alluded to the Article on the subject, which had then just appeared in the current Number of this Periodical, so that we may hope that Article was not without its effect in supplying him with the materials of his judgment upon the question. Before resuming the argument of that paper, it will perhaps be convenient that we should occupy the reader's kind attention for a few moments in summing up the history of the question for the last year, or, in parliamentary phrase, that we should "report progress."

The result of the Deputation was a promise on the part of the Home Secretary, "to give his earnest attention to the subject," accompanied by a request that he might be furnished with a written statement, both of the grievances alleged, and of the measures by which it was thought that they might be removed. Accordingly, a Committee was nominated for the purpose of collecting and putting into shape the materials of an official decision. This memorial comprised the subject of Workhouses as well as Prisons, and we are able to state accurately the course pursued in it, and the points to which it was directed. It was determined to adopt no reserve in asking for a redress of the grievances, and we may add that, had the prayer of the memorialists been granted, the fullest relief to Catholics in prisons and workhouses would have been the con-

sequence. The claims insisted upon were the following:—

### PRISONS.

1. A correct registration of prisoners, according to their religious profession.
2. Free access for the priest to this register.
3. Free access for the priest to all Catholics registered as such.
4. Strict limitation of the services of the Protestant chaplain to the members of his own persuasion.
5. No books to be circulated among Catholic prisoners without the consent of the priest.
6. A chapel, or proper room to be provided, as soon as possible, for separate worship and instruction.
7. Salaried Catholic chaplains and Schoolmasters in all prisons where the average number of Catholic prisoners exceeds fifty.

### WORKHOUSES.

The same as for Prisons, with a further and distinct provision for Workhouse Schools.

This memorial was duly forwarded to the Home Office, and after a certain lapse of time, (explained by the suspension of business during the recess,) courteously acknowledged. "Upon the return of the Ministers to London, the Secretary of State, in conjunction with the President of the Poor Law Board, would undertake to go into the question, and report their judgment." However, "the harvest passed, and the summer ended," but reply there was none. The autumn came, and the winter, and with the winter came also Mr. Walpole's resignation, and Mr. Sotheron Estcourt's succession to his place and duties. But still, reply there was none. Meanwhile the question was taken up in other quarters, and with what zeal and promise we shall presently see.

In justice, however, to Mr. Secretary Walpole, it must be added that certain small concessions to our claims were, in the meantime, made through private instructions sent to the Government Prisons. The effect of those instructions has been to amend the actual system in the following particulars. 1. Greater facilities have been provided for the access of the visiting Priest to such of the Catholic prisoners as have once requested to see him. The names of such prisoners are now entered upon a list which is kept for the inspection of the priest, and those whom he has once seen he can visit as often as he pleases. 2. Greater care is now taken to inform all the prisoners



that they can see, on request, a "minister of their own denomination," and although this phraseology is not always intelligible to Catholics, yet such a provision is at any rate a step in the right direction. The effect of these instructions in improving the personal relations of the priest with the prison authorities, and impressing him with a greater idea of liberty has, we are informed, been even more valuable than any positive advantage in the regulations themselves.

If these slight, though no doubt well intended, improvements be compared with the list of "gravamina," or "desiderata," stated to have been embodied in the memorial to the Home Office, it will be seen how very little has as yet been done towards putting matters upon a better footing. The grand grievance of all, the limitation of the priest's visits to the comparatively small section of prisoners who express a desire for them, remains unredressed. The influence of the Protestant chaplain, again, is still left in its full operation upon the Catholic prisoners. While the priest is debarred from visiting more than a fourth of those prisoners who are the members of his flock, and the subjects of his care, the Protestant chaplain has unrestricted access to all alike. He can supply them with or deprive them of books, he can ply them with arguments.

But we proceed with our historical summary. This year, as we understand, the Visiting Priest of Pentonville made personal application to Mr. Secretary Sotheron Estcourt, for leave to give communion at Easter to all the Catholic prisoners, registered as such. The request was promptly and peremptorily refused. Meanwhile the subject has been warmly taken up both by the ecclesiastical authorities and by many influential members of the laity. Meetings have been held under episcopal sanction, in various districts of the metropolis; a deputation has waited upon Mr. Sotheron Estcourt, and received an encouraging answer; and if we are to judge by uncontradicted statements, extensively made during the late General Election, Her Majesty's Government\* are at length setting themselves in good earnest to confront the question, and are actually preparing measures towards the legislative redress of these manifold and most intolerable grievances.

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\* This was written before the recent change.

The present, then, would seem a favourable opportunity for adding to the Catholic side of the balance, the weight, whatever it may be, of our own earnest advocacy. We return once more to the subject, after a year's suspension, and we think our readers will acknowledge, after all we have now said, that we shall return to it with considerable advantages of experience and intermediate "ventilation."

One of the most practical of the conclusions which have been matured during this interval is, that nothing good, or at least nothing permanent, is likely to be effected without parliamentary interference, at all events in the way of an authorised interpretation of the existing law. There is an unlucky statute of George IV., which, if it be not a legitimate obstacle, is at any rate an actual obstruction, to improvement. This statute declares, in effect, that all prisoners, not of the established religion, may be visited at their own request, by a minister of their own religious profession. Now we know there are eminent legal authorities who consider that this provision is permissive merely, and not prohibitive; that, in short, it enables all Catholics and Dissenters to see a priest or minister of their own, if they desire it, but leaves to the executive authorities a discretion in cases where no such desire has been expressed. But at any rate, the words of the statute are ambiguous, and thus it becomes a convenient, possibly a real, plea with official men for refusing permission to visit Catholic prisoners who have omitted, whether through ignorance, or obduracy, to make a personal request to see him. This statute must be got rid of, or we fear that no improvement will be lasting.

The grievances of which we have to complain in workhouses are of the same stamp with those which exist in the prisons, with the great additional evil of a wholesale system of Proselytism in Workhouse Schools. There is in Workhouses as in Prisons, a most defective registration of the inmates, according to their religious varieties. There is the same difficulty (with some exceptions,) in obtaining access to Catholics who do not make known their religion. There is the same "genius loci" operating as an incubus upon religious freedom. There are the same motives of terror and profit to set a premium upon the profession of Protestantism. There is the same dan-

ger from Protestant ministers, with the additional danger of "Visiting Ladies." Added to which the Poor Law system permits that great additional instrument of proselytism, the Workhouse School. All our readers are not, perhaps, aware that the children of "paupers" are draughted off into a separate and often remote establishment, where their religious education is very much at the mercy of the Parish Guardians. The Act of Parliament, it is true, provides that no child shall be educated in a religion to which the parent *objects*; but should the "objection" of the parent never reach the ears of the Parochial authorities in such a form as they are obliged to act upon, it is presumed that such child is a member of the Established Church, and hundreds, nay thousands, of the children of Catholic parents are thus brought up in Protestantism.

These then are the evils of the present system to the redress of which the strenuous efforts of Catholics must now be directed. It is plain that the profession of "religious liberty" is a delusion and a sham as long as Catholics are exposed to oppression such as this.

We cannot but congratulate the Catholic public upon the appearance, at such a moment, of Mr. Russell's excellent pamphlet, the title of which will be found at the head of this Article. Its peculiar value consists in the business-like manner in which it grapples with its subject. Mr. Russell has the advantage, as a barrister, of a professional acquaintance with the legal brand of the question. He does not deal, like many writers and speakers on such topics, with vague generalities, nor indulge in verbose declamation, but is everywhere terse, argumentative, and to the point. His pamphlet should be in the hands of every Catholic who is zealous for the best interests of our people, and has the means, whether in parliament or otherwise, of advancing them.

His argument bears rather upon workhouses than upon prisons, and as we dedicated our Article of last year to the latter department of the subject, we cannot do better than address ourselves, under such able guidance, to the former.

What a melancholy picture of suffering humanity is the interior of one of our workhouses! It is in every way an antithesis to those Hospitals or Houses of Refuge for the

destitute, which were once its substitutes, and are still (thank God,) its companions in this Protestant country of ours. The class of persons for whom the workhouse offers its cold comforts, is one which receives, as it merits, the especial sympathy of our most holy and most compassionate mother, the Church. "Pater meus, et mater mea," says the Royal Psalmist, "dereliquerunt me; Dominus autem suscepit me." Such is the office which our tender Lord delegates to His Church. The sorrows of the aged and destitute poor—what an opportunity for the boundless sympathy of this true Mother! Homeless, friendless, helpless, cheerless, where but in the Church shall the destitute poor find their adequate solace? In one of our Hospitals, or Houses of Refuge, they would be met on every side by kind looks, accosted with gentle words. They would be "sure of one another's hearts." Holy pictures and images beaming with the tokens of powerful love, would greet their eye as they raised it from their beds of suffering. Every morning the Victim of propitiation would be offered for them. Every night they would lie down to rest, happier far than kings and queens, under the assurance of Mary's blessing. Alas! how different the sights and associations of a Protestant Workhouse! You approach it, and the first objects who meet your eye are a posse of squalid poor, crowding near the door for admission, awaiting the pleasure of some surly official, whose gruff voice and imperious manner are the harbingers of their uneasy future. You enter within the enclosure, which, far from wearing the aspect of a retreat from the world, is rather a picture of the world's misery in epitome. Care-worn faces, languid movements, sharp, or sullen words, denote the habitual spirit of the place. They tell a tale which flattery cannot varnish nor hypocrisy disguise. You wend your way through some dreary court, or up some steep staircase, into one of the "wards." Along the wall are rows of beds, (none of the cleanest,) occupied by the chronic patients, who, even had there been any sympathy to exhaust, would have long ago drained it out by the tediousness of perennial suffering. For by a distressing law of our present existence, compassion is not rarely dispelled by the very causes which should excite it. Around the fire are collected the "convalescent" inmates of the same department, engaged in that

sort of heavy and uneasy talk, half dictatorial, half contentious, which is indigenous to Protestant England. Truly one of our workhouses is a sickening sight. It is an institution most cunningly devised for depriving sorrow of all which ennobles it in appearance, and opens to it the opportunities of merit. It is a system under which all the virtue of endurance seems to evaporate in grumbling. God has His saints everywhere, especially among the Irish poor; and *they*, we doubt not, can sanctify even the opportunities of a workhouse. For ourselves we fancy that we could find a sort of monastery in Pentonville or Millbank, especially if we got there in a good cause; but we hope there is no want of due resignation in very earnestly deprecating for ourselves, and all who are dear to us, the operation of the Poor Law in our and their particular regard. May we never fall, through change of circumstances, into the hands of a Guardian!

But if the workhouse regulations press hard even upon poor Protestants, what shall be said of their bearing upon our own people? In their case, all these evils, sufficient in themselves, are aggravated tenfold. The unhappy "pauper" who is also a Catholic, is, as we have reason to know, the marked object of every species of petty persecution. Should such an one be so fortunate as to meet with kindness on the part of the officials, (no common exception to a general rule,) this is no security for peace and quietness. There is no class in which the "odium theologicum" is more rife than the Protestant inmates of a Union. They have abundant time upon their hands, at least for talking, and they commonly make the Catholics (who are of course the helpless and unresisting minority) the butts of their ridicule and the themes of their gossip. The Catholics, again, who are inmates of the infirmary, are obliged to hear, if not to receive, the exhortations of Protestant District Teachers, and the "ministers of all denominations." This might be endured, had they the full privileges of their own religion, but they have not. In many workhouses they cannot see the priest except at their own special request, and then only when they are ill. Difficulties are often raised against their going freely to Mass. All these are terrible aggravations of their burden; and far from wondering that their faith is sometimes weakened under the pressure, our own astonishment is, that they so

generally preserve it under the disadvantage of so crushing a rule and so poisoned an atmosphere.\*

The religious disabilities under which Catholics labour in workhouses are very similar to those which operate against them in prisons. Perhaps, on the whole, the workhouse system acts more favourably than that by which establishments for the detention of criminals are regulated ; at least the exceptions to the general rule are more numerous. But there is little to choose between the two. Under both systems alike there is one extensive grievance, which in prisons is never redressed, and which in workhouses is only redressed by accident. It is this ; that our priests are allowed access to those Catholics only who make a special request to see them. Such an arrangement actually excludes the larger, and necessarily the more depraved class of inmates from the benefit of religious ministrations. Another grievance common to prisons and workhouses is the unlimited power of the Protestant chaplain, whose visits to Catholics are unrestricted, while those of their own priests are, in all but the special cases we have named, strictly prohibited. A third grievance is the want, almost universal, of any power of assembling Catholic inmates of prisons and workhouses for united prayer or general instruction.

Added to these grievances, which are common to Prisons and Workhouses, there is another, which relates exclusively to the latter class of establishments, and which is perhaps the most fatal of all. We allude to the operation of the present Poor Law system, upon the children of Catholics. It is perhaps not generally known that the children of "paupers" are draughted off to a Workhouse School, where they fall completely under the management of the parochial authorities. It will be at once seen that this is a grand opportunity of proselytising, which is not likely to be neglected. The law provides, indeed, that no

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\* We are bound in justice to say that there is one workhouse at least, in the metropolis, where all is done which is in the power of the executive authorities, to mitigate the oppressive nature of the law as respects Catholics—that of St. Mary's, Islington. We believe the same of Marilebone ; but good intentions are there sometimes marred by ignorance, *ex gratia*,—a proposal to go to Mass in the afternoon as more convenient with reference to breakfast hours ! These exceptions, (which are almost isolated,) do not operate essentially against our argument.



child shall be educated in a religion to which its parent *objects*. But then, no care whatever is taken to give the parent the power of objecting, and thus, as a fact, multitudes of children are lost to the Catholic Church, by being supposed Protestants when they are not so.

Mr. Russell, in his able pamphlet, has treated very fully of this enormous grievance. He shows how unfair it is to cast upon a parent the *onus* of objecting to a child being brought up in a different religion from his own, when, ten to one, that parent is precluded by circumstances, from having any voice in the matter.

"It may be," observes Mr. Russell, "that the parents, or surviving parent, are in a position wherein it is difficult to communicate with them, and months elapse, and in the meantime this child of Catholic parents is under the especial care of the Protestant chaplain and his active satellites. But suppose that a tardy protest comes from America or elsewhere, and that such protest is able to survive the many objections to which it may technically be open, as being imperfect legal evidence—are the troubles of this Catholic child ended? Is he then allowed the benefit of such very inadequate instruction as a law boasting of its spirit of enlightenment and religious freedom places within his reach? By no means. Under the extensive power vested in them, the Commissioners have framed a rule in reference to the 19th Section of the 4 and 5 William, 4. c. 76, which, after providing for the presence, or request, in the Workhouse, of a clergyman of the religious persuasion of any inmate who is not a member of the Established Church, directs that he shall confine his religious instruction to inmates who are of the religious persuasion of such minister, *and to the children of such inmates*; and from the words italicized, the Guardians have, in such cases as we are considering, most unjustly and illogically argued, that only those parents who are inmates of the Union, are to have any voice in the all-important subject of the child's religion."—*The Catholic in the Workhouse*, p. 13.

The mode by which Mr. Russell proposes to correct the present imperfections of the Poor Law in respect of the Catholic inmates of workhouses is extremely simple, and he has embodied in the draft of an imaginary Bill to be proposed to Parliament, all the provisions which appear necessary to the purpose. They are chiefly the following:

1. That in every establishment which is under the direction of the Guardians of the Poor, whether workhouse, properly so called, district school, lunatic asylum, or otherwise, there be kept a Register of the inmates, according to their several "religious denominations," and



that this register be at all times accessible to the priest, or other minister charged with the spiritual care of the members of any particular "denomination."

2. That such priest or minister be allowed free access to all the subjects of his spiritual charge, and the entries in the said register be taken as conclusive testimony to the religious profession of any inmate, till disproved by sufficient evidence.

3. That he have further the power of assembling them at proper time for worship and instruction.

4. That in cases where the religious profession of any applicant for admission cannot be ascertained from the parties themselves, whether through defect of age, or other disqualification, it be the duty of the Guardians to use all means necessary towards obtaining the requisite knowledge.

5. That religious books be provided, within certain limits, by the Guardians.

6. That chaplains and schoolmasters be appointed by the Guardians, for the Catholic inmates, subject to the approval of the Catholic Bishop.

7. That no inmate be permitted to be present at the worship or teaching of any chaplain or schoolmaster, other than those belonging to his or her own religious profession, except at the special request of such inmate, to be duly certified and allowed.

The sketch of the bill of which this is a summary, is evidently drawn with great care. As far as we can judge, it comprehends every case of difficulty, which could possibly arise in the relations of the Catholic Church with the system it undertakes to amend; and we think it peculiarly fortunate that, at a moment when all parties alike are looking out for some practical guide towards the redress of grievances which are extensively appreciated, such a manual should be furnished us by one who is evidently capable of grappling with the legal, as well as with the practical difficulties of the question.

The history of this prison and workhouse question has furnished us with an instance of that remarkable phenomenon which meets us every now and then in our course through life, and which forces even upon the most incredulous minds the idea of our being at the disposal of some agency whose operations are wholly independent of ourselves. The strange fact to which we refer is this, that

subjects which we have perhaps for years ineffectually endeavoured to bring into public notice, upon which we have exhausted our energies, spent half our lives, and which we have at length dropped or laid aside in very weariness and despondency, will all at once, without any assignable reason, start into public notice, and become the rallying points of the most enthusiastic sympathy. It is hard enough to understand how even one mind should come without concert or communication into entire union with our own. It is far more wonderful when hundreds are found to have suddenly leaped to a conclusion which we had vainly tried to get thoroughly inwrought into one. Yet so it has been in this instance. There are priests who for years have been labouring without effect to get this subject of Catholic grievances taken up. They spoke, they wrote, they argued in season and out of season, yet all to no purpose. Did they do more? Perhaps so. Perhaps, besides other modes of attaining their object, they prayed. But they had almost begun to fold their arms in hopeless resignation, and to close their lips in dogged, or at least disappointed, silence. On a sudden, however, they wake up and find that a hundred hearts are with them, and a hundred voices attuned to the same note. This is something, in the way of the joyful phenomena of life, which is the counterpart to an epidemic in the opposite category. It is something "in the air." Hundreds are seized in a moment with a simultaneous although independent sympathy. Surely there is nothing parallel to it but those supernatural coincidences which had their origin at Pentecost. What can it be which has all in a moment prostrated a host of prejudices, and knit together so great a multitude of hearts in the sweet accord of active charity?

Yet this is what we have seen. Where hitherto one or two priests, in the obscurity of some remote mission, have been struggling in an unequal contest with commissioners, guardians, and secretaries of state, exposing with heavy heart and weary pen, the oft repeated grievance, and receiving for answer the stereotyped refusal, or even the cold rebuff, we have now, in the place of these isolated efforts, these trembling approaches to the threshold of power, these unassisted labours and ill-requited efforts, a movement earnest, deep, unanimous, extensive, and irresistible. High and low, rich and poor, clergy and laity, Catholics of older or of later standing, are all alike, and

almost suddenly, impelled by it, and our very enemies stand astonished at the spectacle of so marvellous a consent, on what to them appears so disproportionate a theme. Such, however, is the spectacle under the vivid impression of which we write at this moment. The eighth day of June, 1859, witnessed a scene which, though it have known its parallels, has scarcely been matched by its equal. It was not the first, nor will it by many instances be the last occasion upon which large bodies of Catholics, of various ranks and classes shall have met together to vindicate their rights, or descant on their grievances. Yet even Mr. Langdale, whose memory goes farthest back into the times of our depression, and whose efforts in behalf of his religion comprehend the widest range of subject, could call to mind, as he told us, no case in which the elements of union and strength were found in such remarkable combination as in the meeting to which we refer. But that which gave to this meeting its distinctive character and especial meaning, was the occasion which convoked, added to the spirit which animated it. It was assembled to plead no partial cause, to vindicate no merely political right, to answer no selfish nor merely secular end. It was in behalf simply of the spiritual interests of the poor that all the strength and greatness of the English Catholic body were met together, and all its well-known chivalry evoked. The men of mere politics stand absolutely amazed and perplexed. "What?" say they, "all this excitement about so paltry an affair as the administration of sacraments in a prison or a workhouse!" Let them, however, understand from what they now see, that the saving of one poor soul is an object dearer to the heart of the Catholics of England than all the gifts which wealth can purchase or influence command.

One of the most striking features of this great meeting was the manner in which the political aspect of the question was subordinated to its religious interest. Party considerations were wholly put aside. The gentlemen who took a lead in the discussion of the subject were not merely members but leaders on both sides of politics. One (Mr. Monsell) had held office under Lord Palmerston; others, if less ostensibly, were no less really pledged to the side of Lord Derby. No allusion, however distant, was made to political parties, no anger expressed at the disappointments encountered on one side, no elation manifested at

the hopes raised on another. While we write the seals of office and executive power have passed from the hands of one party into those of the other, and our chief interest in the change turns upon its probable effect in furthering, or retarding, the cause we have in hand. There can be no doubt that, had Lord Derby remained in power, our principal grievances would have been redressed, and if his successors desire to win back that measure of the Catholic support which, as a party, they have lost, they must begin by removing every pretext for an unfavourable comparison with the Government which they have displaced. They bring to the cause of justice and liberality in our regard this advantage, that the Conservative party cannot now obstruct those measures for our relief which they have admitted in principle, and actually entered upon in practice, in the grant of Catholic chaplains for the army.

We have only to repeat what was so truly said at the Meeting of the 8th of June, that this is scarcely more a question of religious interest than of political expediency. It is to the advantage of the civil government that its ends should be guaranteed by the most effectual safeguard; and guaranteed they will never be until the work of moral reformation is left in the hands of those who possess the best qualifications towards carrying it out. It is something little short of infatuation to discard in such a cause, the aid of so important a power as the Catholic religion. Let our temporal rulers do their duty, and keep within their appointed province, and they will have no reason to complain of the Catholic Church. She is their true friend, and their most serviceable ally in the preservation of order, the maintenance of peace, the encouragement of loyalty, and the preservation of that high tone of morality for which England stands distinguished among the nations of Europe. "Fides data," says a heathen moralist, "fidem obligat." Confidence rests upon a basis of reciprocity; and if statesmen can but bring themselves to trust the Church, she will give them no cause to repent of their generosity.

On the other hand, can anything be more shortsighted, and even self-destructive than the system upon which our public establishments are administered? The power of religion, as an agent in the ministry of consolation and the reformation of life, is completely neutralized, as far as Catholics are concerned, by the confusion of influence and

the partition of responsibility. The criminal and the pauper, instead of being the subjects of a healing ministration, become the victims of a contest for appropriation; and the time, brief enough, which is required for building up in faith and virtue, is occupied in the work of doing and undoing, of anticipating probable aggressions, or counter-acting rival agencies.

The remedy of these evils is so simple in itself, and so undeniable as a matter of justice and propriety, that we cannot conceive the case of its being long withholden. Let there be a provision, secured from the interference of prejudice, and withdrawn from the range of accident, whereby the Catholic and Protestant chaplains of these establishments shall be confined each within his own province of ministration, yet unrestricted save by the necessary conditions of his office, in the exercise of it. Let neither be allowed to overstep a territory which the other has no power to invade. We would not, of course, press such a rule to the extent of precluding the possibility of a change of religion, on either side. The rights of conscience must be respected. If, then, it should be made clear that any Catholic desire the ministrations of the Protestant chaplain, by all means let him have them. On the other hand, a Protestant's right to receive the assistance of a Catholic priest, should he be proved sincerely to desire it, must, upon the principle of equal justice, be likewise admitted. In Mr. Russell's excellent pamphlet, distinct provision is made for this case, and it is evidence to us of the great forethought of which his suggestions are the result, that he should have contemplated its possibility, and fully met its difficulties.

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- ART. V.—1. *The Judges of England*; with Sketches of their Lives. By Edward Foss, F.S.A. Vols. i.-vi. London; Longmans and Co., 1848-57.
2. *The Lives of the Chief Justices of England*, from the Norman Conquest till the death of Lord Mansfield. By John Lord Campbell. Two vols., London, Murray, 1849.
3. *The Lives of the Lord Chancellors and Keepers of the Great Seal of England*. By John Lord Campbell. Five vols., London, Murray, 1845-6.
4. *Lives of Chief Justices Lords Kenyon, Ellenborough and Tenterden*. By Lord Campbell. London, 1857.

PERHAPS no other class of English biography presents a succession of historical characters so interesting as those we find in the lives of eminent judges of bygone days. Their personal history is almost as much the history of our law itself as of its individual administrators, but its attractions are by no means confined to the jurist and legal antiquary; all who prize our liberties and who venerate the lessons of history, are interested in the events, however remote in time, from which a right or privilege of Englishmen originated, and in the memorials of the men by whom it was won. And just as the student of jurisprudence traces throughout our civil code the enduring principles of Roman law, and finds in feudal enactments which had their beginning in the western empire while St. Augustine was converting the Anglo-Saxons, the original of laws which still greatly affect our inheritance and civil rights, so we trace in judicial biography, the influence which English judges have exercised on the growth and improvement of our laws, and see how greatly the judges of past times contributed to make our country what it is. Every Englishman must feel a glow of pride when he sees—even in the faint lineaments which history presents—men who, filling the tribunals of justice in times of comparative barbarism in this country, handed down lofty principles of right and maxims of constitutional liberty. Justice could serenely hold her sway even amidst civil war and political tumult; though parliaments were too often servile, judges could be patriotic; and even in the days of the Plantagenets our courts of justice asserted the majesty of

English law. In the fourteenth century we find the judges holding that "the king's grant is of no power to prejudice the subject's interest;" that "the common law has so admeasured the king's prerogatives that they shall not take away or prejudice the interest of any one." Later, we find judges declaring that "the law of God and the law of the land are all one, and both prefer the common and public good of the realm;" that "no statute is to be extended to life by doubtful words;" that "arbitrary imprisonment is unknown to the law;" that "a royal proclamation is incompetent to make new law, or to impose fine, forfeiture or imprisonment;" that "the air of England is too free an air for a slave to breathe it." No other kingdom can exhibit to her sons so august a succession of reverend magistrates as Englishmen can boast, of men conspicuous for integrity, learning and independence; or can show amongst those who filled the high places of judgment, so many champions of popular right and liberty in times when both were threatened by the crown.

But we must not look for their prototypes in the early periods of our history when the king's Chancellors bore the sword as well as the crozier and great seal, when the chief justices of the sovereign were his companions in arms, when lawyers had not become a separate class, and feudal barons were judges of the land. A chief justiciary or a chancellor was then seen at one time as an earl mounted on a war-horse and holding a sword, at another in his pontifical habit pronouncing the benediction; on one day laying siege to a castle, on another building or adorning his cathedral church. Although the simple institutions of Saxon judicature were not superseded at the Conquest by a system at all resembling the highly artificial system of jurisprudence under which we live, the feudal law of Normandy substituted intricate rules for the simplicity of Saxon tenures; the civil and the ecclesiastical jurisdictions were separated; the French was used instead of the English tongue in courts of justice; the Earl and the Bishop no longer sat in judgment in the county court, and the clergy were still the only lawyers. William the Conqueror seems to have designed one grand central tribunal for the whole realm, in which all causes of importance should be heard and decided, and in his justiciar or chief minister of justice, England for the first time beheld a judicial officer of transcendent power. From



assembling in the hall of the king's palace wheresoever he might be, this high court acquired its appellation of the *Curia Regis* or *Aula Regis*; the great officers or ministers of the crown were its judges, but the chief justiciar enjoyed much more than judicial preëminence. He was next in authority to the sovereign, represented him as viceroy, and as Lord Campbell says, exercised conjointly the functions now belonging to the commander-in-chief of the forces, the first minister of the crown, and the chief justice of England. Yet history shows us more than one chief justiciar of Norman England, who presents the calm and dignified aspect of a judge and prelate amongst the mailed figures of feudal barons. Such a man was William de Carilefe, Bishop of Durham and Justiciar, who was endowed with high mental gifts, is said to have administered justice impartially, and was the first great benefactor of his see; and it should never be forgotten, when we behold the massive grandeur of Durham Cathedral, that we owe its earliest architecture to a man who some eight centuries ago was a chaplain in a peaceful village of Normandy, but was one of those men "gifted with celestial fire," whose mission was destined to endure beyond this mortal life, whose hands might sway "the rod of empire," and whose genius might raise a temple that should invite generation after generation to the worship of the Eternal. Like Carilefe, the early Norman Chancellors were distinguished as church builders rather than as lawyers: thus Maurice, Bishop of London—almost the first chancellor on record—rebuilt the Cathedral of St. Paul; Lanfranc, who was a Justiciar, rebuilt his cathedral of Canterbury; and Osmund, Bishop of Salisbury, who was the Conqueror's nephew and Chancellor, was a great church builder and was canonized as a saint—a distinction which, we fear, has not been attained by any of his successors in Westminster Hall except St. Thomas of Canterbury, however deserving they may have been as lawyers. Ralph Flambard, Carilefe's successor in the See of Durham, is remarkable as the first Chancellor who sat in the new hall which William Rufus built adjoining the old palace at Westminster, in which the king held his court at Whitsuntide 1099, and which has continued to be the chief hall of justice in England for more than 750 years. This Chancellor was a Norman of low birth, whose mother had the reputation of being a witch and

conversing with demons; and the monastic historians have revenged themselves for his exactions from the clergy by imputing to him a diabolical rapacity and craft besides inordinate ambition; but it must be remembered to his honour that he nearly completed the stately cathedral which his magnificent predecessor had begun, and built Norham Castle on the 'Tweed, the northern home of the princely Bishops of Durham. Again, in Roger, Bishop of Salisbury and Chancellor of England in the reign of Henry I., we have another great architect. In his case, as in that of many other chancellors, prudence in managing the king's household was the stepping-stone to preferment; but his career was marked by romantic vicissitudes, from the time when Henry I. heard him say mass as a village curate in Normandy, to the day when he surrendered his strong castle of Devizes to King Stephen, after a career of almost sovereign power.

And as the Chancellors and Justiciars of those days were magnificent churchmen, so when circuits were established for the purpose (amongst other things) of trying such criminal accusations as arose in the different countries, the judges itinerant were, generally, great barons of the province in which they were assigned to hold pleas: thus, for Yorkshire, Durham, Northumberland, and Cumberland, in the 31st Henry I., Eustace Fitz-John (the builder of Alnwick castle, founder of Alnwick abbey, and governor of Bamburgh,) was appointed a justice-itinerant, and associated with him was Walter Espec, the great Yorkshire baron, who, when the Scottish invasion roused the northern patriots to arms, jointly commanded the English host at "the battle of the Standard," and crowned a life of valour by founding Rievaulx abbey. The judges itinerant in Norman reigns beheld a country whose aspect little resembled that of England at the present day, for no towns of portentous magnitude then spread stony pavements and labyrinths of dwellings over the sunny fields; no populous centres of civilization and corruption darkened the light of heaven by canopies of smoke; and if none of the wonders achieved by modern art and opulence marked the landscape in those days, at least no vast workhouse, castellated gaol, or many-windowed factory met the traveller's view; a third of the country was uncultivated and covered by primeval wood; the judges traversed in some parts of their journey barren moors and Roman roads; whilst the

bear and the wild boar ranged the forest of Middlesex, and the wolf lingered in the north of England.

The law itself seems to have been in a state equally rude down to the reign of Henry II. Civil rebellion in Stephen's days disturbed the course of justice ; and its administrators—if not engaged on their own account in feudal strife—were commonly the partisans of contending suitors, and did not always shield the weak from the aggressions of patrician power. But in the reign of Henry II. the law became reduced to a system which required that the judges should be skilled in law, and that the advocates or practitioners should be lawyers ; for the laws of Normandy had been gradually combined with the laws of England, and the Canonists built into this composite structure the enduring marble of Roman civil law. But the Chancellors, and in many instances the Justiciars, were still ecclesiastics. Two of the greatest Justiciars of Henry II. were, however, feudal barons, viz., Richard de Luci and Ranulphus de Glanville. The former is memorable as a statesman ; for, before the rise and after the martyrdom of Thomas à Becket, he swayed the kingdom, as well as the king's chief court of Justice ; and, in the celebrated constitutions of Clarendon, in 1164, laid the basis of ecclesiastical polity of later times. It was characteristic of the age that this great feudal chief founded a fair monastery in the wooded solitude of Lesnes, by the broad Thames, and ended his days there as a monk. His office of Justiciar was shorn of its splendour while the genius and ambition of Lord Chancellor à Becket concentrated in his own hands all the authority of the state.

That extraordinary man was the first Englishman appointed to the office of chancellor, and he brought to it a knowledge of civil and canon law, which he had acquired in Italy, whither he had been sent to study by his early patron the archbishop. Upon his return he was employed in negotiations in which he showed great ability, and when presented to Henry II., on his coronation, the youthful à Becket was not only an accomplished scholar and attractive companion, but was as skilful as the king himself in his favourite pursuits of hawking and the chase—tastes which have long ceased to be conducive to preferment in Westminster Hall. He must have made a dignified and courtly chancellor; and the costly state in which he travelled on his embassies to Rome, gave an external splendour to

his office, which it had not previously attained. His legal career, however, was at an end before that extraordinary series of events occurred which has made his name so prominent in English history, and so glorious in ecclesiastical annals.

Ranulph de Glanville was the first Justiciar who won both military and legal renown, and his life affords a curious example of the manners of the age, for at one time he is seen as the grave and learned civilian, presiding among the bishops and other judges of the king's court; at another, clothed in mail, and leading an army against Scottish invaders; and then, exchanging the spear for the pen, we behold him author of a treatise "on the Laws and Customs of the Realm." It was while he filled the office of Sheriff of Yorkshire (in 1174) that he performed the unexampled exploit of leading an army against William the Lion, of Scotland, and capturing that formidable invader while he was besieging Alnwick Castle. Glanville soon afterwards attained the office of Justiciar of England, and wrote the treatise which has won for him the title of the "Father of English Jurisprudence." This remarkable work, written a little more than a century after the Conqueror's ascendancy became established, shows that the realm was "even then governed," as Lord Chief Justice Coke observes, "by laws and customs grounded upon reason and of ancient time obtained;" and that Henry II. sought for his judges "men grave in manners, familiar with the laws, and wise, eloquent, and speedy in their administration." To the advice of his illustrious justiciar is attributed his ratification of the ancient laws of Edward the Confessor, and of the laws of William, and his solicitude for the due administration of justice throughout the kingdom. At length, after an honourable tenure of his high office, Glanville was seen in the new character of a crusader. On the 30th January, 1188, after the archbishop had exhorted the king and his council to engage in a new crusade, the aged justiciar, (who was not supposed to be enthusiastic, and who had a wife, children, and grandchildren, the objects of his regard,) rose up as soon as the king had declared his determination to march for the Holy Land, and was solemnly invested with the cross. At the king's entreaty he retained his office, and delayed his journey; but soon after Richard's coronation, Glanville accompanied a chosen

band of Norman knights to Palestine, where, in the following year he ended his noble career at the siege of Acre. How greatly the dying crusader would have rejoiced if he could have seen what we see—the power of the crescent at length drooping beneath the cross, and England sending her peaceful sons to promote every branch of European civilization in the land on which the proud chivalry of Christendom fought and fell!

The office of Chancellor did not, in Glanville's time, rival in dignity and importance that of Justiciar, and it was not until the office of Justiciar had been abolished and the separate equitable jurisdiction of the Chancellor acquired, that he became first in judicial rank. In the Anglo Norman reigns, the Chancellor held both the great seal and his place in the *Aula Regis* as the king's principal chaplain, confessor and secretary; but personal character combined with official power, in the case of other great justiciars besides Glanville, to give that office pre-eminent dignity.

A magnificent churchman, Hugh de Pudsey, Bishop of Durham, of whose taste as an architect the "Galilee" of his cathedral and some other great works remain splendid monuments, succeeded the martial and lettered Glanville, and was himself superseded by a still more powerful churchman, William Longchamp, Bishop of Ely, who united in himself the offices of Lord Chancellor and Chief Justiciar, and ruled England during King Richard's absence in Palestine, and captivity in Germany. Nothing is known of Longchamp as a judge, but the extraordinary activity of his character, displayed itself in every branch of his varied functions; he even tried his hand as an engineer, for he constructed the ditch or moat of the Tower; but (as Sir Francis Palgrave remarks,) he did not show skill in this capacity, as he seems to have supposed that the river Thames would keep the excavation constantly full. In his exactions, he oppressed clergy and laity alike, and his rapacity threatened to exhaust the realm; but the minstrels, of whom he was a liberal patron, sung his fame in all the market-places of England. We see him, when in the height of his power, travelling in royal state, presiding in judgment, and using royal authority; we see him on his fall, holding the Tower of London and defying the barons and bishops: then flying on foot from Canterbury to the sea coast, disguised as a

female pedlar, and made the sport of fishermen and sailors; and finally, detained prisoner in a cave on the shore until he surrendered the royal castles to King John, and was suffered to depart the realm.

After the fall of Longchamp, Walter Hubert, who, from being a poor boy, educated out of charity by Ranulph de Glanville and his wife Bertha, had reached the dignity of Archbishop of Canterbury, became Chief Justiciar. It was during his administration that the peace of London was disturbed by civil war, raised by William Fitz Osbert, a demagogue known in the Folk-mote of the English citizens as William-with-the-Long Beard. The story of his rebellion is related by Sir Francis Palgrave in the preface to his edition of *The Rolls of the Curia Regis*, and is one of those episodes which calls up a picture of bygone times from the dry judicial record. Fitz Osbert having taken refuge in the Church of St. Mary-le-Bow, the Archbishop, who seems to have commanded in person for the king, himself drove the formidable rebel with fire and sword from his sanctuary, caused him to be hung at Tyburn, and reduced the citizens to obedience! These rolls, the earliest consecutive judicial records now existing, afford many such glimpses of the times; they indicate the thrifty habits and prosperous state of the labouring and trading classes early in the thirteenth century, and that they were still Anglo-Saxon in language and feeling, while the Norman tongue and manners influenced the upper classes of society; and they afford evidence not only that the outlines of the common law had then become defined, but that concurrently with the social advancement of the people of England, their judicial system was moulding the Constitution and acquiring an authority which was ever vindicated by its foundation in the law of God.

A succeeding Justiciar, the Geoffrey Fitz Peter, whom Shakespeare introduces in his "King John," was chiefly remarkable for his extravagant outlay upon hawks, and for the fear with which he inspired the king; and his successor, Peter de Rupibus, Bishop of Winchester and tutor of Henry III.—the restless martial prelate whose calm nameless effigy in black marble may be seen in Winchester Cathedral—was a man who made a great figure in the eyes of his contemporaries, and whose fame once filled Europe. A more remarkable Justiciar was his rival and successor, Hubert de Burgh, to whom Shake-



speare assigns the custody of Prince Arthur. His unbounded ambition and rapacity subjected him to accusations like some of those which were afterwards made against Wolsey; his enemies moreover charged him not only with treason, but with poisoning some of the nobility, abstracting from the royal treasury a gem which had the virtue of rendering the wearer invulnerable, and gaining the King's favour by sorcery and enchantment—accusations curiously characteristic of the age. They obliged him to fly to sanctuary at Merton, whither the Mayor of London, at the head of armed citizens went, in the American fashion of these days, to drag the fallen Justiciar from his asylum; but the king having commanded that time be given him to prepare for his trial, he ventured forth, but was obliged to fly to another sanctuary, where his pursuers found him at the altar holding the host and a silver crucifix in his hands. They nevertheless seized him, and were conveying him to London when they were obliged to replace him in sanctuary, but they dug a moat round the church to cut off supplies and prevent his escape. He afterwards surrendered, and on trial was sentenced to forfeitures and imprisonment. In the following year, on a mortal enemy obtaining the custody of the castle in which he was confined, he escaped, and again flew to sanctuary. There he was again beleaguered, with the alternative of surrender or starvation; but being furnished with food and a disguise by two soldiers who had formerly served under him, he escaped to Wales, and, surrendering the office of Justiciar (which he insisted that the king had bestowed on him for life at Runymede), he was allowed to spend the rest of his days in seclusion. In 1243, he was interred by the Black Friars of Holborn, to whom, in his prosperity, he had given the house or town-inn at Westminster, which became the palace of the Archbishops of York, and after Wolsey's fall, the royal and ill-fated palace of Whitehall.

With the reign of Henry III., we reach a remarkable period of our constitutional history; for now began Statute Law, as distinguished from the unwritten or old Common Law of England. But Henry's ministers were generally too much occupied in measures of defence against the barons to find leisure for legal reform, and only two of their legislative measures are known, viz., the Statute of Merton (which was passed chiefly to encourage the inclo-



sure of waste land) and the Statute of Marlbridge (which regulated the right of distraint); yet in the most turbulent period of this turbulent reign, there was given to the world the best treatise on law of which England could boast until the publication of Blackstone's Commentaries. We refer to Henry de Bracton's celebrated *Treatise on the Laws and Customs of England*.\* And here let it be remembered that while Henry III. was embroiled in civil contests, and military prowess was essential to kingly power, the virtuous and Christian prince who then held the sceptre of France, gracing an absolute authority by the exercise of its most beneficent prerogatives, was endeavouring to amend the judicial system of that kingdom. An utter want of legal discrimination and of rules of evidence, had prevailed, especially in the courts of the baronies of France, and the pure stream of justice was too often disturbed by feudal violence. But St. Louis established a wiser system of jurisprudence, and himself administered justice in a very patriarchal mode; for we are told that he was accustomed to receive appeals in his Court of Peers; and often the good saint, after hearing Mass in the summer mornings, might be seen to seat himself beneath a spreading oak in the wood of Vincennes, where, surrounded by his advisers, he would invite all suitors to come to him, and bid his counsellors do them right upon the spot.† A somewhat similar picture of a patriarchal court and camp may, as a contemporary writer remarks, be at this day seen in Montenegro by an English lawyer, within a week after his escape from the heat and dust of Westminster Hall. In the little capital of that highland principality of the Adriatic, "the Prince of Montenegro may be seen surrounded by the chief warriors and senators of his tribe, their dark eyes and glittering arms flashing in the sunshine and their long hair and

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\* Little is known of the author, but from the knowledge of Roman law which his work displays, it is believed that he was an ecclesiastic who had made jurisprudence his study. His treatise is marked by a logical precision, lucid arrangement, and elegance of style, which render it a most remarkable monument of the period. It was not until the law reforms of the last thirty years, that any considerable portions of Bracton's law became entirely obsolete.

† Hallam. *State of Europe in the Middle Ages*, ii. 143.

white tunics streaming in the wind, as he daily administers justice at his palace-gate, under the open sky in the pure mountain air.”\* But we must return to the historic shadows of Westminster Hall.

Only one of Henry the Third’s Justiciars need be mentioned, viz., Hugh le Despenser, a nobleman more celebrated for bravery than learning, but who is memorable as the last of those remarkable men, ancestors of some of the nobility of England at the present day, who for more than two centuries, united the sword and the gown in the political and commanding functions of Justiciar of England. Hugh le Despenser, though aged and infirm, was at the battle of Evesham, and refusing (as Lord Campbell says) to disgrace his ermine by flight, was slain beside the gallant Montfort, Earl of Leicester. That was a year memorable in the history of our country, for, in 1265, England saw the Parliament assembled with which our representative system may be said to have begun.

It appears that the first Chief Justice who acted merely as a judge was Robert de Bruce, who succeeded Hugh le Despenser, as Chief Justice, presiding in the then rising tribunal afterwards called the Court of King’s Bench. He was the head of a great Norman baronial family, and as a kinsman of the Scottish kings is counted amongst the ancestors of Queen Victoria. From the time of the Conqueror, Skelton was the chief seat of his family; and in Scotland their skill in the tournament and in singing romances softened the hearts and won the hands of the Caledonian heiresses. Robert de Bruce, whose parents were known as Robert the Noble, and the princess Isabel, was born at the castle of Lochmaben, but educated under the care of his Yorkshire cousins; and aspiring to win distinction in the law rather than in arms, he practised in Westminster Hall until appointed a judge by Henry III.—After the king’s death he retired to Scotland, where, on the death of the Maid of Norway, he claimed to be crowned king, at Scone, in the absence of his formidable competitor, John Baliol, in whose favour, however, Edward I. decided, at the famous meeting held on the banks of the Tweed, in 1292. During the sway of the Justiciars, the *Curia Regis* was preserved on the footing upon which it had been established by the Conqueror, but its functions

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\* Paton’s Highlands and Islands of the Adriatic, 460.

were now gradually divided, and the various courts at Westminster had their rise from that division. Still the days had not arrived when Englishmen saw the high places of judgment adorned by the profound learning and the judicial virtues which, happily for us, have been so long characteristic of English judges.

The lives of the Chancellors in the Plantagenet reigns belong more to the history of England than to that of the worthies of the law, and the many prelate-chancellors who form commanding figures in the history of their time are memorable as magnificent churchmen rather than as judges. It was not until the reign of Edward I. that the Chancellors had come to exercise important judicial functions as well in their own court as in the council of the king. While the Justiciar's office existed, the Chancellor's principal functions were those of first chaplain, secretary, and almoner to the monarch; and none of the Chancellors were distinguished as judges, or memorable except for the part which many of them took in ecclesiastical and secular affairs. The Chancellor's office, however, was made very profitable by the fees paid on writs and charters, although this great functionary received from the crown only the modest allowance of five shillings a day, with certain cakes and cloth, wine and wax-lights, and lodging. What we read of one Chancellor of the Plantagenets is often applicable to many others; for he was in many instances a monk who, having gained a reputation for piety, won the king's favour by courtly manners and aptitude for business, or having been abbot of a monastery gained the esteem of the brotherhood by his administrative services and his equitable sway, and who, on his merits attracting the notice of the crown, received preferments in church and state, and became a bishop or even a primate, negotiated treaties, and went on foreign embassies; showing in his high civil employments the wisdom, capacity, and temperance which adorned his cloister-life; perhaps rebuilt his abbey or cathedral church; and, when he had "sounded all the depths and shoals of honour," marked his lasting affection for the fraternity of his early love by bequeathing to it his books and vestments, and desiring to be laid amongst the brethren for his final rest. Some Chancellors made provision for the perpetual advancement of learning by founding a college, as the great Walter de Merton did at Oxford; others by endowing scholarships

or forming public libraries ; but it was reserved for the professionally trained judges of later times to earn grateful remembrance by introducing into their decisions some great legal principle, that has ever since governed rights and protected interests of mankind.

The accession of Edward I. was the era when our judicial institutions became firmly established on the basis on which they have ever since remained. The principles of English jurisprudence were then reformed and reduced to system, and the courts for its administration were established in their existing form. The Court of King's Bench—in which the sovereign was supposed to preside, assisted by the Chief Justice—became the supreme criminal court, with a certain control over other tribunals of civil jurisdiction. The Court of Common Pleas arose from the provision of Magna Charta, by which Common Pleas were fixed at Westminster, in order that suitors might not have to follow the king in his migrations through the realm. The jurisdiction of the Court of Exchequer was at first confined to the estates and revenues of the crown, but it afterwards acquired a jurisdiction both legal and equitable. The barons, its judges, however, were not necessarily lawyers even down to the reign of Edward III. The Chancellor became first in precedence of the great officers of state, and sat in his own court, which we dare say was even in those days a very sleepy domain. The old appellate jurisdiction of the Curia Regis was vested in the great council of the nation, and upon that division of the legislature into two houses which soon followed, remained with the Lords Spiritual and Temporal, who had the judges of the land for their assessors. Before the end of the thirteenth century the judicial knowledge, which in earlier times had been monopolized by the clergy, had come to be emulated by laymen in the societies of professors of the law, and from them the king selected his judges. In the reign of Edward I. also began the series of reports of cases decided in the Superior Courts, which, under the title of Year Books, form a grand repertory of English law, less useful than curious for their subject matter and antiquity, and very unlike the professional and newspaper reports of the present day. With that early code of law reform, known as “the Statute of Westminster, the First,” which seems to have acquired for Edward the name of “the English Justinian,” history honourably connects the name of his

Chancellor, Robert Burnel, a distinguished Salopian, who attained the Great Seal in 1274, and to whom is also attributed the code under which Wales was governed until the reign of Henry VIII., when the principality was first allowed to return members to parliament.

Civil strife and national misfortune in the feeble reign of Edward II., suspended further law reform, but in this reign the jurisdiction of Chancery seems to have been considerably extended, and the Chancellor's own court was fixed at Westminster, where, at the upper end of the Great Hall, his marble chair was now exalted. Until the time of Edward III. the Chancellors were still churchmen; but that sovereign for the first time selected a Chancellor from amongst the professors of the laws educated in the Inns of Court, which had then become a great and populous legal university, their members being to the municipal or common law of England, what the advocates in the Ecclesiastical Court were to the civil and canon law of churchmen. The first thorough-bred common lawyer appointed Chancellor was Sir Robert Parnynge, who had been Chief Justice of the King's Bench, and he seems to have been the first holder of the Chancellor's office who was qualified by legal training, for its judicial duties. But in the person of Sir Robert Bourchier, his predecessor, Edward had departed from the time-honoured usage of selecting a churchman for the office of Chancellor, and that gallant knight, who was the first layman appointed to it, seems to have been better fitted for the duties of a general officer than for those of a judge. He had been the king's companion in arms; and the military Chancellor resumed his proper vocation when the campaign in France began, for he fought beside the Black Prince at Cressy, shone as one of the greatest soldiers of that warlike age, and won a peerage, which descended to a distinguished posterity. But Edward soon returned to the Church, and clerical persons were again selected. One of the most remarkable men in the whole series of Chancellors was Richard de Bury, who had been the tutor of Edward III., and became the Secretary and Prime Minister of the young monarch during the early years of his reign, continuing until his own death, in 1345, Edward's most trusted friend and counsellor, after having passed through what Sydney Smith would have called "the Elysian transitions" of ecclesiastical dignity, and held, too, the offices of

Treasurer of the Exchequer, Lord Chancellor, and Bishop of Durham. De Bury's unbounded love of literature and munificent provisions for the preservation and advancement of learning, render his name for ever memorable ; and the noble figure of the good bishop, both scholar and statesman, shines calmly through the eventful scenes of that warlike age, and throws a lustre on the most brilliant reign of English history. After Bishop de Bury's time, chancellors, as if emulating his example, became ambitious of literary attainment and the society of learned men. One of his successors as Chancellor, William de Edyngton, Bishop of Winchester, is chiefly memorable for his early patronage of William of Wykeham, who owed his advancement more to his native genius than his scholastic learning. That illustrious man, when Secretary to the Constable of Winchester, and lodged in a turret of the castle, imbibed that love of Gothic architecture which was the foundation of his fortune, and adding success as an architect in the employment of the crown to dexterity in civil business, he attained rapid preferment. Taking holy orders, he became Bishop of Winchester, engaged in politics, and succeeded Archbishop Langham as Chancellor. Whatever may have been his judicial merits, he has left a great name as well as great architectural works to posterity ; and his collegiate foundations at Winchester and Oxford, which are such noble proofs of his munificence and love of learning, happily still continue to diffuse the blessings of education in his native land.

It does not appear that any improvements in the law or in the procedure of the courts can be traced to the Chancellors of Edward III. ; but when John de Thoresby, bishop of St. David's, held the seals, parliament passed the well-known statute (now in force) which defined the acts against the state that were to be accounted treasonable. At this time, too, trial by jury in the form in which it has come down to our own times, seems to have had its beginning, juries having then for the first time assisted in the administration of justice as ultimate judges of matters of fact. Moreover, it was during the chancellorship of Bishop Edyngton, in 1362, that the statute passed for the use of English in the courts at Westminster.\* At

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\* In the same year (1362) we have the earliest example of the use of English in proceedings of parliament. It was not until the



this time the chancellor's office had increased in importance, but his equitable jurisdiction as a judge had not then become the most important part of his functions. He was, in effect, secretary of state for all departments, and chief adviser of the sovereign, sanctioned all charters and grants by letters patent that passed under the great seal, had the general care of chancery records, appointed justices of the peace (a function acquired in the reign of Edward III.), summoned and opened parliaments, and prepared the legislative acts. When the king held his court in any provincial town, the chancellor followed him, accompanied by the masters of the chancery, its clerks and records, which rolls were carried by pack-horses contributed by some religious house. The officers of the chancery, when in the metropolis, lived together in an inn or hospitium; and they seem to have been somewhat dainty in their diet, if we may judge from the fact that in the reign of Edward II., the king's letters of safe conduct were obtained by the chancellor for poulterers whom he sent into divers parts of the realm "to buy poultry for the maintenance of himself and his clerks of chancery." We do not wonder that in a subsequent reign complaint was made in parliament against the masters that they were "oppressive sinecurists, over fat in body and purse." The chancellor himself received from the crown yearly, in the fourteenth century, a sum which appears to have been equivalent in the time of Edward III. to £2,000 a year of our money, and he was allowed also his robes and maintenance, and a liberal supply of wine from the royal vineyards in Gascony. Perhaps it was in consequence of an unwise abstinence from these good things and a disregard of roast-beef as the English basis of strength, that Walter, Archbishop of Canterbury, a chancellor of Edward II., was unable to resist the persuasions of the queen to consecrate an unworthy favourite, and actually died of fear of the Pope when he heard of the Papal displeasure.

So much, then, for the chancellors of Edward III. The chief justices of the fourteenth century were often, like

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time of Richard III. that the statute laws were given in the language of the people and printed. The use of Norman-French in giving the royal assent to bills, is, of course, a continuance of the ancient custom and a relic of the language of parliament in the reigns of the Plantagenets.



them, much employed on negotiations of state. Some were eminent, a few were sadly unprincipled, and others were extremely ill-fated. One judge, Sir John de Caven-  
dish, ancestor of the Duke of Devonshire, was put to death in Wat Tyler's rebellion; and another, Sir Robert Tresilian, himself underwent the last penalty of the law on an accusation of treason in 1388. Henry le Scrope, a chief justice of this period, deserves honourable mention; for he was the first who, without the advantage of ancient lineage, and by success in the law alone, founded a family and obtained baronial honours. Other Scropes were likewise men of law and letters, "and like good Yorkshiremen, were, (as an old historian remarks) uniformly devoted to their own advancement." The year 1388 must certainly have been a famous time for promotion in Westminster Hall, one Chief Justice being hanged, and all the other judges being attainted, deprived, or banished. At that time, however, the yearly salary of a puisne judge was not a very magnificent prize, as it was only £26 13s. 4d., in the money of those days. Succeeding judges seem to have wisely kept aloof from politics. During tumults that convulsed the realm, they seem to have quietly administered justice at Westminster; and the only battles witnessed by the judges of the Lancastrian dynasty were those fought in Tothill-fields, by champions on the trials under writs of right, when the judges, in their scarlet robes, attended to see that the laws of the combat were observed.

The judge most distinguished in the reign of Henry IV. was Sir William Gascoigne, whose name is made familiar to all by the anecdote of his having committed the Prince of Wales to prison, and by his prominence in Shakespeare's play. He was of a Yorkshire family, and his ancestors were mostly men of valour; but the future Chief Justice zealously studied the common law, and when promoted to the bench, gained the reputation of an upright magistrate. The legal merits of his decisions is a matter that has ceased to interest his countrymen, but his fortitude and his magnanimous perseverance in duty without regard to any selfish consideration, are qualities which excite our sympathies now as warmly as they roused those of his contemporaries. He showed how nobly he could brave the frown of power, when, on being illegally required by Henry IV. immediately to try his illustrious captives, Scrope, Archbishop of York, and Thomas Mowbray, son

of the banished Duke of Norfolk, who had been taken in insurrection against Henry, the Chief Justice told the king that over the life of the prelate he had not any jurisdiction, and that the nobleman had a right to be tried by his peers. But what has chiefly gained applause for Gascoigne was his dauntless ministering of justice on the royal heir of England. Lord Campbell has been at some pains to authenticate the tradition that Prince Henry, in one of his wildest moments insulted the Chief Justice in his court, and was actually committed to prison. Shakespeare in his noble lines has given dramatic effect to the magnanimity of the young prince in reinvesting Gascoigne with "the balance and the sword" on his accession to the crown; but it seems to be now established that the young king in fact lost no time in dispensing with the "practised, wise directions" of the dauntless judge.

The reign of Henry V. was adorned by one of the most distinguished Chief Justices recorded in history—we mean Sir John Fortescue, author of the celebrated treatise, *De Laudibus Legum Angliæ*. It is refreshing to turn from the intriguing prelates and warlike barons who controlled the administration of justice in the fifteenth century, to a man like Fortescue, an enlightened lover of liberty and constitutional law, who won his promotion by his legal attainments, and was not more remarkable for his professional learning than for his judicial integrity. He was advanced in years, and had long worn the robe of dignity, when he signalized his constancy in the Lancastrian cause by fighting for Henry VI. in the field of Towton Moor, by the side of Morton, afterwards Archbishop of Canterbury and Lord Chancellor; and after the fatal and romantic events which reduced Queen Margaret and the young prince to the society of robbers in a forest, Fortescue accompanied the royal fugitives in their exile, and wrote his admirable treatise for the purpose of instructing the heir-apparent in the duties of a patriot king. When the cause of the House of Lancaster had become hopeless, Fortescue submitted to Edward IV., but was cruelly required, as the condition of pardon, to write a treatise in support of the claim of the House of York; and when the old lawyer complied, he was restored in blood, and retired to pass the rest of his days at his Gloucestershire estate of Ebrington, which gives the title of Viscount to his descendants at the present day. Chief Justice

Fortescue may be said to have laid the foundation of parliamentary privilege, by that celebrated judgment, affirming the exclusive right of the Houses of Parliament to decide upon their own privileges, which has been followed for four hundred years and is now the law.

But we must not pass from the Lancastrian dynasty without some notice of three memorable chancellors. Foremost of these was the Cardinal-Chancellor Henry Beaufort, half-brother of Henry IV., who made so distinguished a figure as a statesman during three reigns, and boldly extended the jurisdiction of the Court of Chancery in a manner that alarmed the common lawyers and led to remonstrances from parliament. The control then claimed for the Chancellor over partition, dower, account, and some other matters cognizable by the courts of common law has, however, since continued, as well as the control which Beaufort first asserted over the marriage of infant wards. The jurisdiction of Chancery over uses and trusts seems to have then become quite established; but some of the subjects on which the Chancellor was invoked in the Lancastrian days seem very foreign to his dignity: *ex. gr.*, in one suit he was asked by an attorney to restrain the defendant from using arts of witchcraft to the plaintiff's prejudice; in another, to give relief against the sheriff of Norwich, who had imprisoned the complainant for making tallow-candles with wicks of flax instead of cotton; in a third, to require sureties for the peace; while even the Cardinal-Chancellor did not deem beneath his notice the revenue he derived from licensing any exportation of cheese and butter! Beaufort was four times Chancellor, and he bore chief sway in England until his eventful career closed in 1447, upon that death-bed to which Shakespeare's description has given such ideal terrors. The two other Chancellors, conspicuous in the last of the Lancastrian reigns were, John Stafford, Bishop of Bath and Wells, who held the Great Seal for the unprecedented period of eighteen years, and who, to his great honour, carried the Act of Parliament to confirm the foundation of Eton College, where

"Grateful science still adores  
Her Henry's holy shade;"

and William Waynflete, Bishop of Winchester, who is ever memorable as the founder of Magdalen College,

Oxford, and who lived not only to complete that splendid monument of his pious munificence, but to see the union of the Red and White Rose. But for Fortescue's fame and his immortal work, the rays of juridical science would seem to have been extinguished in this country during the Wars of the Roses. Although classical learning was about to be restored, and the art of printing was already known in Europe, a dark cloud covers England during this period, so unhappily characterised by usurpation and bloodshed, arbitrary executions and savage manners. The equitable jurisdiction of Chancery, however, made great advance in the reign of Edward of York, although equity seems to have still wanted systematic principles and independence of the courts of law.

The most distinguished of Henry the Seventh's chancellors was Cardinal Morton—the model as he was the precursor of Cardinal Richelieu. He owed his elevation primarily to his success as an advocate before the dark and ominous tribunals of Doctors' Commons. As Bishop of Ely he is the prelate made familiar to us by Shakespeare in that scene in the Tower, in which Richard III. asks Morton to send for some of the early strawberries for which the gardens of Ely House, in the then smokeless and suburban Holborn, were famous. He is described by More, his illustrious successor in the chancellorship, as of reverend aspect, both weighty and graceful in discourse, and highly skilled in law. He was of a munificent disposition, and untainted by the avarice which disgraced the character of Henry himself, for whose aggrandisement many of his judges odiously enforced obsolete penal laws. Morton's successor in the chancellorship was a prelate (Wareham, Archbishop of Canterbury,) whose chief glory was the friendship of the great scholar, Erasmus, by whom an interesting eulogium was written on the exalted character, the penetrating judgment, and the pious, well-regulated life of the good and gentle primate. In 1515 he was superseded by the extraordinary minister of Henry VIII., who makes so conspicuous a figure in history.

The life and character of Wolsey from the time of his becoming Lord Treasurer three years before, belongs, of course, much more to the history of England and of European States, than to judicial biography. The steps are well known by which the young Oxford student, suddenly emerging from the cloisters of Magdalen College,

became the favourite companion of Henry VIII., his Prime Minister, Archbishop of York, Bishop also of Durham and Winchester, Cardinal Legate, and Lord Chancellor. Nature had given him dignity of aspect and pleasing expression, and a persuasive influence which seems to have amounted to fascination. During the fourteen years in which he held the great seal, exercising more power than any previous or succeeding Chancellor enjoyed, he acted with fidelity, and his natural abilities to some extent supplied deficiencies of legal training. As Chancellor, Wolsey improved the administration of justice; but he decided causes without the light of those well-defined principles of equity jurisprudence which have been the growth of a more artificial and refined state of society, and is said to have often disregarded those of law. Wolsey however, is, at all events, unrivalled in the external splendour with which he held his office of Chancellor in the height of his power. His biographer describes the establishment of his household, which consisted of 800 persons, with an Earl of Derby for his High Chamberlain, and a magnificent *chef* (who appeared daily in velvet or damask, and a chain of gold) for his master cook; and tells us that when the Cardinal, attired in his scarlet robes and sable tippet, each morning proceeded from York House to his Court at Westminster, he passed through an assembly of gentlemen in waiting, to mount his palfrey which stood in housings of red velvet and gold, and was ushered by an imposing pageant, in which the mace, great seal, and silver cross of York moved on before him, to the Chancellor's marble chair. In admonitory contrast with the picture of his pride in the full meridian of his power, stands the picture of Wolsey, upon his fall, entering Leicester Abbey to be laid for his final rest among the brethren of its tranquil cloister, after surrendering all his palaces and possessions, leaving, however, one monument destined not to pass away, the noble collegiate foundation he endowed from the spoils of suppressed monasteries, for the perpetual advancement of learning.

Sir Thomas More, who was then distinguished alike for his scholastic and his legal attainments, his genius and his virtue, was designated by the public voice as Wolsey's fittest successor. The charm of his manners and conversation was early owned by Henry VIII., who had been accustomed to familiar intercourse with him amidst his

happy domestic circle, before promoting him to the perilous dignity of Chancellor. He was installed in office with studied magnificence and eulogy, and his admirable discharge of his judicial duties soon reflected a new splendour on his character. As a legislator he was the author of some useful statutes; and in his own court, when justice appeared to him to require that he should restrain trials and executions awarded by the courts of law, he acted with firmness, and he seems to have held the opinion that law and equity might be administered by the same tribunal with advantage to the suitor. Fully as the personal character of More has been illustrated by the labour of his biographers, we have always deemed especially characteristic of his worth the well-known facts that he, instead of imitating Wolsey's proud parade, used, when Chancellor, to walk with his family to Mass and sing amongst the choristers; and that he was accustomed every day in term, before he sat in his own court, to ask and receive on bended knee the blessing of his venerable father, who was still a judge in the adjacent Court of King's Bench. To the family enjoyments and the literary pursuits which official duty had interrupted, More eagerly returned, when the determination of the king to marry Anne Boleyn, whether his divorce from Queen Catherine should be granted or refused by Rome, obliged him to resign an office which he could no longer conscientiously hold; and he retired accordingly, to dedicate (as he expressed it) the rest of his time to God and to himself. But his peace was soon to be invaded, and with his refusal to be present at Anne Boleyn's coronation his troubles began. A tyrannical edict, miscalled a law, made it high treason after the 1st May, 1534, to "do anything to the prejudice or derogation of the king's lawful matrimony with Queen Anne," and required all persons to take an oath to maintain the whole contents of the statute. More, deeming the oath unlawful, refused to take it, and was committed to the Tower. After a long imprisonment he still refused the oath, and as he had said nothing that could be perverted into a semblance of the acts made treasonable, the fickle tyrant could not shed his blood. To reconcile his destruction with some form or colour of law, Rich, the Solicitor-General, undertook the infamous task of trying to betray him, in a confidential conversation, into some declaration that might be called treasonable. Every



attempt to practise on his firmness failed, but he was, nevertheless, arraigned for trial, and Europe had not seen such a prisoner at any bar of justice for a thousand years. What a scene was witnessed by sympathizing crowds on that morning of the 6th May, 1535, when the summer sunshine fell upon his venerable form, as, aged and bent by imprisonment, he issued from the Tower amidst his guards, clad in a coarse woollen gown, walking feebly and supported by his staff, to be led to that Great Hall at Westminster, where but lately he had sat in judgment! His hair, it was observed, had become grey since he was last seen among the people. The prosecution must have failed if Rich had not sworn that More denied the power of parliament to make the king supreme head of the Church; and thereupon, notwithstanding that this evidence was unsupported by other testimony, and denied by the illustrious prisoner, he was convicted, and in the name and form of law the eager vengeful tyrant became his murderer, to the general horror of Christendom. At this time Fitzjames, whom Wolsey had made Chief Justice, still presided in the Court of King's Bench. He was one of the basest and most time-serving of judges, and ever after he aided in the fall of his old patron was used by the tyrant on the throne as an instrument of his vengeance. On More's trial he behaved so atrociously that he must undoubtedly be regarded as an accessory to the judicial murder of that constant and devoted martyr; and he had another victim in Fisher, Bishop of Rochester, after Henry had obtained an act of attainder against that faithful prelate, the only surviving minister of his father, and his own early counsellor and friend.

In the career of Sir John Popham, one of Elizabeth's Chief Justices, there are some amusing features. While a child he was stolen and disfigured by gipsies; and the irregular habits and little respect for rules of property which marked his youth, were attributed to his residence among his early captors. Traditions were then still fresh of robberies having been committed on Gad's Hill, under sanction of a too-sportive Prince of Wales; and even when young Popham had become a student in the grave decorous Temple, his companions out of doors were profligate, and he is said to have assisted in taking purses on the highway; but instead of being conducted to Tyburn for his offences, he lived to sentence others, and to become a



terror to all evil-doers. Being reformed by his wife, he attained the degree of Sergeant at Law when forty years of age, and gave a feast of extraordinary magnificence, which was graced by some fine old Gascony wine, said by the wags to have been intercepted by him one night many years before, on its way from Southampton to the cellars of a London alderman. Soon after his election as speaker of the House of Commons he was appointed Lord Chief Justice, which dignity he attained in 1592; and he presided for fifteen years, exhibiting in civil suits much learning and impartiality; but his share in the disgraceful proceedings at the trial of Sir Walter Raleigh sadly tarnishes his character as a judge.\* There were but very few of the Tudor judges who exhibited the independence and impartiality as between the crown and the subject, which most of them showed between suitor and suitor: perhaps, however, their subserviency in state trials is to be considered the reproach of the age rather than of the individual. Popham is also remarkable for having amassed more property than any lawyer before his time had acquired, and becoming the owner of the estate of Littlecote Hall, which is the scene of the mysterious story of Wild Darrell.

It is now time to pass to Sir Edward Coke, a Chief Justice whose life has been written by no fewer than six biographers since 1825, who has been considered the highest oracle of our civil jurisprudence, and is even called the hero of the English law. He was a scion, as the reader will recollect, of that ancient Norfolk family which is now represented by the noble owner of Holkham; but preferring hard study to the easy life of a country gentleman, he became a student of the law, and most diligently devoted himself to its pursuit. He rose at three, read formidable black-letter books of law, and went at eight to hear arguments in the courts at Westminster, which lasted until noon, the hour of dinner; after which he attended readings or lectures, and studied in his own chamber until supper at five, and then he heard questions debated at the Moots of his Inn of Court. He finished the day in an atmosphere of law, for he walked in the evening in the

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\* It is curious that the practice of interrogating the accused in criminal trials, to which the French still adhere, then prevailed in England.

gardens or the cloisters of the Temple, as the season permitted, and then wrote down the information he had collected, retiring to bed at nine, in order to have an equal portion of sleep before and after midnight. He never indulged in a visit to the Globe or other theatres then rising into repute, or in reading what he deemed so unprofitable as the poems of Spenser or Surrey, although Shakespeare and Ben Jonson were at that time in such fashion that grave lawyers wrote prologues for their plays, or assisted at the brilliant masques which then disturbed the sombre repose of the Inns of Court. Coke was called to the bar in 1578, and his progress was almost as rapid as that of Erskine two centuries afterwards, but resulted from scientific skill in drawing pleadings, and not from a popular eloquence. His manners were not prepossessing; his mind never opened to the liberal studies of philosophy nor owned the charms of literature, and he afforded a striking contrast to his great rival, Francis Bacon, who was a polished courtier, and had "taken all knowledge for his province." Coke's reasoning was narrow-minded, his style cramped, his disposition arrogant and overbearing, his selfishness and love of riches insatiable; but his success was immense, and his practice so profitable, that the crown is said to have been alarmed by the increase of his territorial possessions. He had attained the head of his profession when he cast a longing eye on the great fortune of Lady Hatton, a beautiful young widow, daughter of Thomas Cecil, eldest son of Lord Burleigh, who became a widow only a year before Coke lost his first wife. Her cousin, Francis Bacon, who was then a briefless barrister, though an accomplished scholar and man of winning address, aspired to her hand; but Coke was eager to prevent his professional and political rival from becoming allied with the Cecil family, and being preferred by the lady's father was accepted by herself. They were privately married—for the young widow refused to be paraded in face of the church as the bride of a wrinkled Attorney-General of fifty—but the sad discrepancy of their tastes soon appeared. He loved law and hated gaiety and expense; she did not appreciate lawyers, and delighted in hawking, in masques, and the adulation of the young courtiers who had served under Sidney and could repeat the verses of Spenser. Perhaps if their married life had not become unhappy, Coke would not have

produced the voluminous works which have given him such lasting fame, or have plunged into the toils of public life. He escaped the disgrace of being employed while Solicitor-General against the Queen of Scots; but when, in 1594, he became Attorney-General, he examined state prisoners, saw them duly tortured, and browbeat his victims when placed upon their trial. On the arraignment of Lord Essex for the insurrection in London, Coke behaved brutally to that chivalrous young nobleman—conduct which seems to have been partly dictated by the friendship of the young earl, at the time he was the favoured lover of the queen; for Francis Bacon, who, though younger, and with less of technical learning, had won a splendid reputation when the rivalry for the office of Attorney-General arose between him and Coke. His first appearance as public prosecutor, after the accession of James, was on the trial of Sir Walter Raleigh, when Coke again disgraced himself by his language and conduct. On the prosecution of Guy Fawkes he acted with a cold-blooded cruelty; and, indeed, in all his prosecutions his conduct was marked by servility to the crown, an unscrupulous stretching of the royal prerogative, and a disregard of humanity and justice. At length, after twelve years of crown practice, tired of amassing money at the bar, he stepped from this stormy ocean to “the somnolent haven of the Common Pleas,” but not until he had signalized his gigantic energy by producing five volumes of cases decided during his practice. As a judge Coke made noble amends for his conduct as Attorney-General; he acted with a lofty independence, and presented the spectacle—rare in those days—of a magistrate whom neither the dread of power nor the love of applause could turn aside from duty. The diversity was hardly greater between Bacon, the philosopher seeking for truth, and Bacon, the aspirant Chancellor, seeking for power, than between Coke the fierce unscrupulous Attorney-General, and Coke the patriotic judge.

King James was not content with attempting to exercise judicial functions in his Court of King’s bench, and to decide questions of law, but endeavoured to interfere with the course of justice, supersede the laws by proclamations, and make the judges accountable to him for their decisions in civil suits. These royal enormities robbed the judicial bench of popular veneration, and led to that corruption of law and subservience of its administrators which was a

chief cause of the horrors of the Great Rebellion. When judicial offices were notoriously sold, and judges became more solicitous for the prerogative of the crown than the liberties of the people, and when those venerable men who did venture to uphold constitutional rights suffered for their independence, the people naturally lost their confidence in the courts of justice, and the monarchy itself, deprived of those bulwarks, fell. Coke alone, on that memorable occasion, when James, in a fury, summoned the judges, to scold them for having heard a cause in which he asserted his prerogative or interest to be concerned, refused to promise that in similar cases in future, justice should be delayed until the king's wishes were known. "When the case happens," he nobly said, "I shall do that which shall be fit for a judge to do." Although in the Stuart reigns, a judge who gave an opinion against the crown was pretty sure to be dismissed, Coke nevertheless continued in his high office, but he held it for only a short time longer, and it is to his early retirement that we owe the great monument of his delight in juridical pursuits—his *Commentaries on Littleton*, a work which has been pronounced the body of the Common Law of England, and the chief foundation of his fame. It is worthy of remark that his great rival, Lord Chancellor Bacon, when impeached for taking bribes, solaced himself in his fall by pursuing literature and philosophy; and Coke, who had no taste for either, employed himself when in his turn a prisoner in the Tower, by writing his Commentary on Littleton, his library being a low chamber in the fortress which had once been a kitchen. Coke, however, though not reinstated in the office of Chief Justice, was again returned to parliament, and to his great honour carried the act (still in force) for abolishing monopolies, and moreover framed the celebrated Petition of Right. It is difficult for us at this day to believe that such evils as those against which the statute for suppressing monopolies was levelled can have existed in England; that in the reign of Elizabeth one man can have enjoyed the sole right to buy and sell steel in this country; another, the exclusive right to buy linen rags and make paper; another, a monopoly of the business of dustmen and collectors of old clothes; and that the sale of tin, lead, iron, steel, leather, paper, currants, oils, sulphur, salt and starch, were monopolized by favoured persons who could suppress any competition.

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Coke's statute, however, amended these evils, and has ever since enabled the crown to secure to an inventor the exclusive right to practise his invention for a limited time. As regards the other monument of Coke's legislative wisdom and patriotism, the reader will recollect that King Charles I. having assumed the power of committing to prison without specifying any offence upon the warrant, and the judges having decided that they could not examine into the legal validity of such commitment, the aged ex-Chief Justice carried resolutions which, fifty years afterwards, became the foundation of the Habeas Corpus Act, and obtained the royal assent to a measure which declared general warrants to be illegal. These were not the only proofs the veteran jurist gave of his continued vigour of intellect: at the age of eighty he had not closed his law-books; and in his last retirement he added the second, third, and fourth books to his celebrated Institutes. He attained such length of days, that having seen in his infancy the eve of the Reformation, he saw in his old age the beginning of the Great Rebellion, for in Sept. 1634 he expired, in the 83rd year of his age. In his immortal reputation for learning we endeavour to forget that his vast legal knowledge was accompanied by narrow bigotry, that he was capable of servility as well as memorable for patriotism, and that the faults of an avaricious and unfeeling temperament darkened his character.

To the life of Francis Bacon a separate article might well be devoted. We must be content to say here, that his acquirements and character as a lawyer are eclipsed by his eminence as a philosopher, and that it is from his immortal works, and not from his career as Chancellor, that his name derives its lustre. It was in 1598, when Bacon was thirty-seven, that he made his first appearance as an author, by publishing the "Essays" which are still the most popular of his works. Seven years afterwards appeared his "Advancement of Learning," the interval having been occupied in his efforts to advance himself. In March 1617 he received the great seal, and survived for nine years his memorable sentence for the acceptance of bribes. The views of his character taken by Lord Campbell and by Mr. Foss are in some respects conflicting; but it cannot, we think, be denied that Bacon's efforts for promotion were generally sullied by unprincipled accompaniments (as Mr. Foss in his fair and careful

biography has shown), that he ungenerously depreciated rivals, was inconstant and ungrateful to friends, was servile to the monarch, and a flatterer of the favourite of the day.

In the biography of judges in the reign of Charles I. there is little that would interest the reader; but honourable mention must be made of the spirited assertion by Sir William Jones, one of that learned body, of the essential independence of the judges on the House of Parliament. The Lords, in 1628, chose to call on certain of the Judges, to account to them for a decision pronounced in a cause before the court. Sir William Jones insisted on the constitutional independence of the Judges, and denied the right of the House to question their administration of justice.

Before we pass to the judges who did not hold their offices by royal authority, it may be amusing to glance at judicial salaries in the early part of the seventeenth century. The Chief Justice of the King's Bench received £224. 19s. 4d. a year, the Chief of the Common Pleas £161. 13s. 4d., each of the other Judges of those courts, and the Chief Baron, £154. 19s. 8d., and the other Barons £133. 6s. 8d., all the Judges receiving besides, £33. 6s. 8d. for their circuits, with their diet and travelling expenses. At each assize town, moreover, the mayor and sheriff made presents for the judge's table; and the fees which then appertained to their offices raised their incomes greatly beyond the meagre salaries above mentioned.

Some of the Republican Judges were men of character and learning; and turbulent and disjointed as were the times, showed high judicial qualities, and rendered good service in preserving England's ancient laws from destruction. Some fanatical spirits of the time were for abrogating the whole fabric of our laws; they desired to substitute the law of Moses for the Common Law of England, to destroy all the records in the Tower, and to dispense with legal learning and professional skill. But the great body of the nation, true to the traditions of Englishmen, wisely adhered to the ancient laws of the realm as their birthright and best safeguard. Reforms of legal procedure, indeed, were made during the interregnum, and some improvements were then proposed which, after the lapse of two centuries, were adopted in the reign of Victoria, or are at this time under discussion. Criminal



procedure also was improved, and in trials for felony rules of evidence came to prevail.

One of the most prominent of the "Commonwealth" Chief Justices was Oliver St. John, who, as a leader on the side of the parliament, was second only to Cromwell in his influence on the events of the Great Rebellion, and whose political crimes contrast strangely with his proficiency in law and his ability in the administration of justice. It has been said truly enough that St. John was swaying the deliberations of Parliament when Cromwell was feeding cattle, and presiding at Westminster while Cromwell was leading his psalm-singing troops to victory at Marston Moor.

When in 1641, Oliver St. John became Solicitor-General, his "dark, ardent and dangerous" character became displayed. As manager for the Commons on the attainder of the unfortunate Earl of Strafford, he outraged all principles of justice; and in parliament he aimed at the abolition of episcopacy, the transfer of military power to the House of Commons, and the subversion of monarchy. He had hardly taken his seat as Chief Justice, when England witnessed the spectacle of her anointed sovereign arraigned as a culprit at the bar of a self-constituted tribunal; and after the execution of the king, St. John, failing himself to seize the office of protector, adhered to the usurper and continued Chief Justice until the Restoration.\* He did nothing for English jurisprudence, and is remembered as a crafty, avaricious and remorseless politician, rather than as a great magistrate or enlightened judge.

But for the services of Chief Justice Rolle and some other judges, the iron heel of Cromwell's military usurpation would have trodden out our liberties and laws. Rolle, to his honour, resigned his office when the sages of the law were admonished by the Protector that they had no authority but what he gave them; and this Chief Justice continues to be reverentially remembered by lawyers, if not for the celebrated "Abridgment of the Common

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\* An insult which St. John received when sent on an embassy to Holland led to that ordinance against Dutch commerce which became the foundation of the Navigation Laws of our ancestors; and his negotiations for a union with Scotland led to that Parliament for Great Britain which Cromwell afterwards summoned.



law," which was the work of his early industry, at all events for his uprightness and ability as a judge. Some of the great lawyers of those days seem to have been hardly made of flesh and blood: they studied law with entire devotion; wrote appalling compilations and abridgments of Littleton and Coke; conversed on law for their relaxation, and passed lives of industry and self-denial. Law was

"Their food, their sleep, their study and their pastime."

The foundation of the Middle Temple Library in 1641 by Mr. Robert Ashley, is the more memorable for the contrast between so enlightened and liberal a provision for legal education and the tumultuous changes which at that eventful epoch disturbed the nation.

Our jurisprudence is also much indebted to Sir Matthew Hale—one of the most pure, independent and learned of English Judges; for, when the ancient laws of England were threatened with destruction by the military fanatics of the state, he devoted himself to their preservation, and joined some enlightened jurists in effecting legal reforms. Born in the middle ranks, his early training under a puritanical teacher strangely tintured his character for life. At Oxford he read Calvin, and frequented private prayer-meetings whilst studying the Classics and Aristotle. As the visit of a company of strolling players developed his long suppressed taste for finery and amusements, so his conference with a great lawyer on whom he called in London when on his way to serve as a volunteer abroad, gave a new direction to his youthful ardour; and determining that arms should yield to the gown, Hale became a member of Lincoln's Inn. He began by vowing never to see a stage-play again; he abjured gay and convivial company; devoted sixteen hours a day to study, and prescribed regulations for his conduct which evince his native piety and new ardour for the acquisition of knowledge. From a love of finery he passed to an apparel so slovenly that, wandering on Tower-hill one day he was captured by a press-gang for the king's service, and would have been shipped off for the West Indies if not rescued by some fellow-students. His manuscripts—still extant at Lincoln's Inn—show his indefatigable industry; and when he sought recreation amidst his law studies, he had recourse to philosophical experiments, and the society of

literary men. His rise was rapid, though he had not the natural flow of eloquence and confident manner which are adapted to jury trials. He preserved a strict neutrality in the troubles of the civil war, but when the Saints of the Commons governed England without king or lords, Hale found no other object for loyalty than the laws of England, and he accepted commission as a judge. His independent spirit and nice sense of justice, seem to have brought him into collision with the "Protector," who soon found he would have no servile instrument in this conscientious judge. He seems to have contemplated retirement from his judicial duties, when at length the Restoration was accomplished, and Hale was presented to Charles II., on his long vacant throne at Whitehall, and was soon afterwards named a Commissioner to try the regicides.\* When the measures against the Presbyterians were in contemplation, Hale was adroitly removed by Clarendon from the House of Commons, and induced to accept the office of Lord Chief Baron. He laid down rules for his conduct as a judge which cannot fail to be read with reverence and admiration. At the end of eleven years, he became Chief Justice of England, and his judicial qualities shone forth with lustre. He showed himself equally familiar with every branch of law, and—what was then rare—with the Roman Civil Law as well as with equity. It has even been said that Lord Chancellor Nottingham, who is called the father of our equitable system, revered Hale as his great master. It is strange that the perverse credulity of the age with regard to witchcraft, should have influenced a man of Hale's high judicial qualities, and have led him to violate the plainest principles of justice, as it did on the trial before him at Bury St. Edmund's of two miserable old women, who were indicted for laying spells on children. The evidence is fully stated by Lord

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\* One of the strange points which then arose was, whether the act of severing the head of the royal martyr from his body could be alleged in the indictment as committed in his own lifetime, and be laid as "against the peace" of the late king, or against that of Charles II., whose reign was supposed to have begun immediately. One of the judges made the confusion more confounded by maintaining that by the law of England a day is indivisible, and that as Charles II. was certainly lawful king during a part of that day, no part of it had been in the reign of Charles I.

Campbell, who remarks that an acquittal should clearly have been directed, but the chief justice charged the jury to convict, and the unhappy prisoners were executed. It was characteristic of Hale that on the following Sunday he wrote a "Meditation on the mercy of God in preserving us from the Malice and Power of Evil Angels," and referred in it with complacency to the trial at Bury St. Edmund's. This was the last capital conviction in England for the crime of bewitching. It was reserved for Lord Chief Justice Holt to put an end to such cases by directing prosecutions against the persons who pretended to be bewitched, and punishing them as impostors, so that never after Holt's time, was any female in England in danger of being hanged or burned for the crime of being wrinkled, paralytic, or unpopular. Failing health obliged Chief Justice Hale to resign in 1676, and on his retirement he received a homage as sincere as touching. Like his great predecessor, Sir Edward Coke, he died a Commoner, for until the reign of James II., no Common Law Judge was ennobled.

After the Restoration, a very important change was made in the relation of the Judges to the Crown, for thenceforth their commissions constituted them, not during pleasure, but during good behaviour in office, and thus they became independent of the sovereign. Before this era, the practice was capricious, some few judges holding for life, but more during pleasure only; yet we owe many maxims of constitutional liberty to judges who held their offices only during the sovereign's will, and in days too, when public opinion had no existence.

We must forbear to dwell on the lives of any judges of the last Stuart reigns, excepting Lord Chief Justice Holt. Although Scroggs and Saunders, Jeffreys and Wright, and a few other unprincipled and incompetent men disgraced the chief place of justice, many upright and enlightened judges adorned the bench during that era, in which we behold (to adopt the language of Canning) the old constitutional system recovering from the revolutionary deluge, and the landmarks of ancient establishments beginning to reappear above the subsiding waves.

Holt was one of the most eminent of the judges appointed after the Revolution of 1688. He was a man of unsullied honour, profound learning, and enlightened understanding; and to his judicial services, we may, in no small

degree, attribute the stability of the constitutional system which was introduced when the Stuarts' hereditary right to the throne came to be disregarded. Holt, it is true, was not a statesman like Clarendon, a philosophic writer like Bacon, or an orator like Mansfield his distinguished successor, but he was so excellent a judge, that he makes nearly as great a figure in history. Unlike Sir Matthew Hale, young Holt was early destined to the law, but when at Oxford was guilty of sad irregularities, connected with which is the well-known story of his paying for his entertainment at a village hostelry, by binding on the wrist of his landlady's daughter, who was suffering from ague, a strip of parchment, on which he had written some cabalistic characters, and of Holt, when become Lord Chief Justice, trying this poor woman as a witch, and telling the astonished court the history of the cabalistic parchment which she still wore, and which had led to her prosecution. Under the care of a sober attorney in London, young Holt's reformation became complete. He became Recorder of London, but resigned the office on the arbitrary measures of King James, which appeared to him to render its tenure incompatible with his integrity. When, after the King's flight, the throne was declared vacant, Holt sought in the establishment of a constitutional monarchy a guarantee for freedom; his appointment as Chief Justice followed, and was hailed with joy by the nation; and during the twenty-two years for which he held his high office, he constantly rose in the admiration of his countrymen. In deciding on private rights, his great achievement was, that he moulded the common law of feudal times to the altered wants of society. When Holt became Chief Justice, commerce and manufactures were rising into importance, and England saw the small beginnings of that trade which our enterprise has spread throughout the world; but important questions as to the liabilities and remedies on negotiable securities, and in the law of marine insurance were unsettled, and it remained for him to illustrate the general law of contracts by sagaciously applying the imperishable principles of Roman Civil Law. He laid down that the *status* of slavery cannot exist in England; as a criminal judge, he put an end to the revolting practice of trying prisoners in their fetters, and of endeavouring to show the probability of a prisoner being guilty of the offence for which he was tried, by prov-

ing that he had been suspected of former offences ; and Holt won deserved applause by his moderation and impartiality on state trials, and on those questions of constitutional law which brought him into collision with the two Houses of Parliament. Being called on by a Committee of privileges of the House of Lords, to give reasons for a judicial decision which had not been regularly brought before the House on appeal by writ of error, Holt, at the peril of commitment, refused to debate the judgment, and gained a triumph over the House. His independent conduct as a judge, appears the more admirable when we reflect that he might have forfeited his office by displeasing the government, for William III. (to his great dishonour, and notwithstanding the regard he professed for liberty) insisted that the judges should hold office during his pleasure only. Their independence of the crown was not finally secured until the end of his reign, when it was provided (by a sort of tack to the Act of Settlement), that the judges' commissions should constitute them for life, or so long as they should do their duty, and that they should not be removed save on the address of both Houses of Parliament—a greater improvement in a national institution was certainly never made in fewer words.

In the memorable contest for election privileges, after the accession of Queen Anne, when the Commons rushed into a controversy with the Courts of Law and the upper House of Parliament, Holt alone of the twelve judges, held that a court of law could inquire into the legal merits of a commitment by either house.\* Holt survived the

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\* The judgment of the Queen's Bench being brought before the House of Lords by appeal, the Commons absolutely issued warrants of committal against the Counsel, two of whom were lodged in Newgate, the third making an undignified escape from the sergent at arms, only by descending from the high window of his chamber in the temple, by the aid of a rope and his bedding. There is no saying to what extremities the parties litigant would have proceeded, if the Queen had not immediately put an end to the Session, shortly after which the abuse of privilege met its proper correction. A century afterwards, Chief Justice Ellenborough laid it down, in the great case of *Burdett v. Abbott*, that if the warrant of the House did not profess to commit for contempt, but for some other specified matter which could not be deemed contempt, but was

controversy five years, and his death was mourned by men of all parties in the state. His marriage, like Coke's second marriage, had been unhappy, and some people maliciously accounted for his unwearied devotion to business, by his dislike for the society of Lady Holt, who survived him.

From want of space we must forbear to speak of Sir Thomas Parker, afterwards Lord Macclesfield, who succeeded Holt and subsequently became Lord Chancellor, and of that more distinguished Chancellor Lord Somers—a consummate lawyer and honest though Georgian statesman, who passed unblemished through a base and venal age.

We pass over some successors whose lives are insipid, whose characters present none of the lights and shadows found in those of the judges of the seventeenth century, and whose chief distinction was that they became the founders of patrician houses, and come to the most accomplished common law judge who presided in the eighteenth century.

William Murray, afterward Earl of Mansfield, first saw the light in the palace built on the site of the ancient royal abbey of Scone. As younger son of Viscount Stormont, a poverty-stricken Scotch nobleman of Jacobite sympathies, the chances were, (as Lord Campbell remarks), rather that he would waste his days angling for salmon in the Tay and coursing the deer among the Highland hills, or wandering an exiled adherent of King James, than that he would attain the highest dignities of Westminster Hall, and combine a taste for elegant literature with a profound knowledge of law. According to Dr. Johnson, much may be made of a Scotchman if caught young, but the future Chief Justice had attained his fourteenth year before he was sent to Westminster, by advice of Bishop Atterbury, then dean. Under an old ash-tree the youthful Murray received the parting blessing of his parents, whom he was destined never more to behold. His journey to London occupied more than seven weeks; and being performed on a pony, the solitary youth has been compared to Gil Blas, when proceeding on his uncle's mule to study at Salamanca, except that instead of being cheated of his horse and becoming a companion of robbers, the young Scot

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contrary to law, the Court of King's Bench would do justice, from whatever Court the warrant might have proceeded.



steadily travelled on ; and the worthy apothecary, to whose care he was consigned in London, sold his pony, and with the proceeds bought the young student a sword, two wigs, and proper equipment for Westminster school. When Murray, first on the list of king's scholars, was sent on the foundation to Christ Church, Oxford, his destination became the bar, and he was entered of Lincoln's Inn while pursuing the studies peculiar to Oxford, where oratory was his especial delight. He was early a votary of the muse of poetry, and on the death of George I., gained the prize (in competition with the elder Pitt) for a Latin poem on the poetry-hating Hanoverian, to whose dynasty the young aspirant seems to have been content, at least outwardly, to bow. While mastering the intricacies of law, many of his hours of relaxation were passed in the society of Pope : the autocrat of the literary world took a great liking to him, and might be seen sitting in the character of preceptor beside the future Chief Justice of England. Murray soon acquired reputation at the Bar, and in a few years attained the head of his profession. In 1738 he married Lady Elizabeth, a daughter of Lord Winchelsea, with whom he lived happily for nearly half a century. In 1743, when those events were approaching which so nearly restored the Stuarts to the throne of their ancestors, he entered Parliament ; and there his powers as a debater, the graces of his speech and action, and the silvery tones of his voice, gave him great success. The state trials of the unhappy rebel lords being over, a period of tranquillity followed, in which Murray increased his reputation as a statesman and a lawyer ; and he closed his long and brilliant Solicitor-Generalship by that vindication of our maritime rights in time of war, which Lord Stowell always spoke of with reverence. To Murray belongs the honour of having discovered the genius of Blackstone as a jurist : it was he who advised the illustrious commentator, then quite unknown, to read Law Lectures at Oxford to such students as should be disposed to attend them ; the plan not only suggested to Mr. Viner the establishment of the Professorship of the Common Law, but occasioned those immortal *Commentaries* which when they were subsequently given to the world, received a memorable tribute of approbation from the great Chief Justice to whose judicious encouragement they were to be traced. In 1756, on the death of Chief Justice Ryder,



Murray was promoted to the high office, and received a peerage with the title of Lord Mansfield. It would, of course, be foreign to our province to show by an examination of his decisions how well he deserved his unparalleled ascendancy in Westminster Hall. The system of the Courts was little different in Lord Mansfield's day from what it had been under the Lancastrian princes. Rights connected with land were still the chief care of the Common Law, and no rules yet existed by which the questions arising in times of extending commerce, and from the growing wants of an inventive age could be determined. His knowledge of the mercantile jurisprudence of other nations, enabled the Chief Justice to introduce by judicial decisions, many improvements in the commercial law of England; and we owe to him the law of Marine Insurance, many rules since firmly established with regard to negotiable securities, and such improvements in the law of evidence, as caused it to be said that he found this part of our judicial system of brick and left it of marble. Without preferring his own views of justice to authority and precedent, he never "suffered justice to be strangled in the nets of form," and his efforts tended to adapt the law to the growing wants of mankind. As regards criminal jurisprudence, however, he was not in advance of the age in which he lived. As a statesman his career, subsequent to the death of Lord Chatham, is chiefly marked by a just and liberal advocacy of measures designed to mitigate the atrocious penal laws which were then in force against the Catholic body, measures which led to the memorable "No Popery" riots, in which scenes of unreasoning bigotry and violence, the house and "lettered store" of the venerable judge (then in the seventy-sixth year of his age) were destroyed by the mob. His political career closed with the accession of Pitt to office, and in 1788 he resigned the Chief Justiceship, which he had so long adorned by high judicial qualities, noble independence, and disregard of any other popularity than that which follows the pursuit of noble ends by noble means. While the surges of the French Revolution were inundating that country with blood, the venerable peer (who had been advanced to an earldom) was serenely meditating amongst his cedars at Caen Wood, and his life glided tranquilly to its close in 1793, in the eighty-ninth year of his age.

The life of Lord Chancellor Hardwicke—Lord Mansfield's contemporary in the early part of his career—is perhaps less interesting to the general reader than to the Chancery lawyer. That eminent Chancellor is memorable, however, for the profound and enlightened principles he laid down, and for perfecting equity into a symmetrical system. Seen on his tribunal as Chancellor, he may be said to fulfil our highest idea of judicial excellence—indeed his Chancellorship has been enthusiastically regarded as the golden age of equity; but in his character of minister of the crown his memory is unfortunately stained by the judicial severities that were committed in England after the events of 1745.

Mr. Foss's valuable series of Judges ends with the Restoration. Lord Campbell, as our readers are already aware, carries on the series to the death of Thurlow, and dedicates the concluding volume of his *Lives of Chief Justices* to Lords Kenyon, Ellenborough, and Tenterden, with whom of course we reach the time of living memory. As we have already noticed these lives at considerable length, we shall not pursue the subject further. We cannot conclude, however, without remarking that, as we come to those recent times in which the establishment of constitutional freedom has assured the subject against encroachment by the Crown, and in which political influences have ceased to turn aside the pure stream of justice, Judges of England have been the great improvers of her laws; and the learning, independence, and judicial virtues, which have always made our courts of justice bulwarks of constitutional liberty, have exercised a mighty and most beneficial influence upon the jurisprudence and the social advancement of our country. Finally, the lives of these "intellectual prizemen of history" afford a perpetual lesson to the youthful aspirant; they sustain the struggles of advocacy by showing the success vouchsafed to persevering diligence and constancy; and proclaim that he who would follow the judges of England to their height of civil greatness must emulate their virtues and practise their labours and devotion.

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ART. VI.—1. *The Knights of St. John, with the Battle of Lepanto and Siege of Vienna.* London: Burns and Lambert, 1858.

2. *History of the Knights of Malta, or Order of the Hospital of St. John of Jerusalem.* By Major Whitworth Porter, Royal Engineers. London: Longman and Co., 1858.

HOW difficult, nay, how impossible it seems to be for a Protestant to understand the spirit, the institutions, or even the ordinary rites of the Catholic Church! We say nothing here of the doctrines, for they are concealed from Protestant eyes by a cloud which the grace of God alone can dissipate. Read the charges, the sermons, and the speeches of Anglican prelates and dignitaries. Whenever those learned personages touch any Catholic subject, they invariably utter, in the most positive and dogmatical manner, blunders and absurdities which a tolerably well informed Catholic young lady would expose and refute without hesitation or difficulty. Those same persons—if they wanted to ascertain a point of law—would by reference to authorities obtain a knowledge of the question. But to any question regarding the Catholic Church they apply a totally different method of enquiry, if indeed they enquire at all. And the result is gross and obstinate error. This we see every day in the public newspapers. So we are told by Protestant statesmen that the Pope is not infallible, because the states of the Church are not governed according to Whig principles. And we have heard a learned Protestant maintain that the doctrine of the Immaculate Conception is, that the Blessed Virgin was conceived by the Holy Ghost. He was told by a Catholic that that dogma is, simply that the Blessed Virgin was exempt from the stain of original sin from the first moment of her existence. But then came the usual reply: “*Educated Catholics like yourself believe what now you say, but it is otherwise with the lower classes.*” Of course the Protestant refused to be convinced of his error. With regard to Catholic rites, Protestants usually dwell on some accessory, or accompaniment, or circumstance. After being present at a Pontifical mass, or some other solemn and august ser-

vice, a Protestant coolly remarks that the music was "operatic," or that some one had a tumbled surplice, or that some part of the ornaments of the altar were "in bad taste," or that some person assisting appeared inattentive. This is *the impression* produced on his mind, and the real substance of the service is passed over. If he visits a magnificent foreign church, what strikes him most is some image, which he calls a "doll," dressed and ornamented according to the usages of the country, and this prevents his being edified by the glorious building and the devotion of the people. Often have we heard one of our countrymen or countrywomen describing a function in St. Peter's or the Sistina, dwell chiefly on the fact that one of the cardinals went to sleep, (which is sometimes improved into a statement that "all the cardinals were fast asleep all the time,") or that some person in a clerical dress, who is of course supposed to be a prelate of high dignity, appeared irreverent, or talked, or perhaps even smiled. This was the only thing that struck the spectator, who was utterly ignorant of what was going on at the altar, and probably wished to remain so. If any one had tried to explain the service to him, our friend would have said: "So and so tried to convert me, but he soon found that that wouldn't do;" the fact being, that to talk to the poor man about the Catholic Religion would be like talking about colours to a man born blind, or of music to a man born deaf. And he would have considered his Catholic teacher entirely "shut up" by the remark that the Apostles did not wear red stockings and mitres, forgetting that it is equally true that they did not wear surplices and M. A. hoods, nor lawn sleeves, nor white neck-ties, and black coats. Accessories, or circumstances, or forms, are simply passed over by a Catholic, because in the Catholic Religion ceremonies have their proper value and no more; and the accessories of public worship are considered simply as such, and the weaknesses or defects of individual human nature are overpowered by the reality and the Divine sacredness of the rite. But in the Protestant mind exterior things have too much importance, because the spiritual and interior things are not known nor understood. Thus we see violent and grave disputes among Anglicans, about the questions whether flowers may be placed on the communion table, whether the linen may be trimmed with lace, and whether the candles which are

tolerated, may be lighted. In the Catholic Church, these and similar questions are settled by the Rubrics, and they have no undue importance, because the Catholic Church looks to substance and not to forms, except as accessories. Ceremonies are accompaniments and accessories and outward signs, and therefore the Catholic no more thinks of attaching undue importance to them than he would think of making the value of a splendid jewel depend on the setting, or of estimating a picture by Raphael by the gilding of the frame. The rubrics must be obeyed, and the rites of the Church correctly celebrated; but still every Catholic knows that formality is the bane of religion, and that the substance and spirit of divine worship are its soul and its salutary part. Therefore a Catholic attaches no undue importance to accessories, although he delights in seeing the service of God celebrated with the greatest solemnity and magnificence. He knows that the Holy Sacrifice of the Mass, offered in tattered vestments, under the shelter of a miserable cabin, surrounded by the poorest of the poor, is of equal value with the most solemn and magnificent Pontifical High Mass, and yet he wishes those awful mysteries to be celebrated, if possible, on an altar of diamonds, and under a roof resplendent with gold and jewels. And so a Catholic feels that the most glorious music can add nothing to the efficacy and value of the Holy Sacrifice. And for that very reason his heart is rejoiced and his mind elevated by the sublime compositions of Mozart, Haydn, or Rossini, without his soul ever wandering from the adoration of the Divine Mysteries. Protestants cannot understand this, and therefore they constantly talk of the exterior beauty of the Catholic ritual as something sensual, and opposed to spiritual devotion. We see how much they are mistaken; but we cannot make this evident to them, because they are not Catholics. Thus, for instance, they look upon a Pontifical High Mass as a spectacle to impose on the people, and they do not see that it is a magnificent act of public worship, dedicated to the Divine Majesty, though at the same time a simple Low Mass is of equal value, because no ceremonies or ornaments can add anything to the Divine Presence in the Eucharistic Sacrifice. When they have been present at the High Mass, celebrated by the Sovereign Pontiff in St. Peter's on Easter-day, they never understand that the very same mass is

said under a shed among the poorest peasants in Ireland. In the public worship of the Catholic Church everything has its proper place and proportion, and it is impossible that the richest and most beautiful ceremonial can weaken or obscure the real substance of the divine service. But Protestants cannot understand these principles which to us are so obvious, because they belong to a whole order of ideas and things which do not exist in Protestantism. And Protestants persist in believing that Catholics rely principally, if not entirely, on outward forms and ceremonies, and that the Catholic religion is formal and not spiritual. This notion leads them into a host of blunders and misconceptions and absurdities, whenever they write or speak about the Catholic Church. Such mistakes are to be found even in the works of Walter Scott, and there are many passages in them relating to the Catholic Church, which no Catholic can read without a smile.

The two books which are the subject of this Article, remarkably illustrate the foregoing reflections. Both relate to the history of the most illustrious of the Military and Religious Orders. The first is written by a highly gifted Catholic lady—a nun of the Order of St. Dominic, and the author of the second is a Protestant, a major in the Engineers, employed and residing at Malta. The Major has executed his task with industry and ability. But it was not possible for a Protestant to write anything deserving the name of a history of an institution so Catholic as a Religious Order. He could not understand its spirit, nor its fundamental principles, nor the characters of its heroes, such as D'Aubusson and L'Isle Adam, and La Valette, nor account for its vitality and its greatness. His book, therefore, in two large volumes, is nothing but a dry compilation of facts, a lifeless chronicle of events, and a meagre description of the Constitution of the Order. It is very much like a regimental history. It is interspersed with the usual Protestant common places. This we cannot perhaps complain of. But we may exclaim—*Qu' allait il faire dans cette galère?* What business has a Protestant to write the history of a monastic order? If he could understand the Order of St. John, he would not be a Protestant.

The spirit of the regular life springs from doctrines and practices of which a Protestant has but a very faint and imperfect and incorrect idea. The regular or religious life



cannot exist without the devotion to the Blessed Sacrament, which is utterly unknown to Protestants. And what can a Protestant know of holy obedience and poverty, and the religious obligation of the vow of chastity and celibacy? The very A. B. C. of these things does not exist in the Anglican Church, which has blotted out the evangelical counsels, though they are inculcated by St. Paul, and which therefore cannot see anything higher or more spiritual than a secular life, and the performance of the ordinary duties of the social state, combined with every comfort and every indulgence and luxury that can, under the circumstances, be obtained. Among Protestants a monk is a term of reproach, and some of them indeed use the word *priest* in the same vituperative sense. They have seen a monk during a tour in Italy, and have listened with delight to the calumnies of the miserable *laquais de place*, who cheated them and laughed at their credulity behind their backs. They have read the common places of popular writers about the monastic orders. But they have not the slightest idea what a religious, a monk, or a nun really is; and if they have taken the trouble to study the subject, they are still utterly ignorant of the spirit and the very first principles of the religious life. One proof of this is the utter absurdity and folly of whatever Protestant writers have said about St. Teresa. They have no more idea of that great saint than they have of the inhabitants of the planets, because her whole religious character, and her sublime spiritual gifts, belong to a theological system, and to supernatural truths and mysteries, which have no existence in Protestantism, and of which Protestants know nothing. And they are not much more able to understand the active than the contemplative religious life. For instance, they can never see why a Sister of Mercy or of Charity should not be a wife and a mother, and enjoy all the comforts of life; and they do not value her nearly so much as they do a rich and prosperous lady bountiful, in a handsome manor house, with a husband and a large family, and surrounded by every indulgence and luxury that money can procure. We do not blame them, for these are matters of which they have no distinct or correct idea, but we are always sorry when they undertake to write or speak on subjects with which they are, and generally wish to remain, thoroughly unacquainted. We therefore heard with regret that a Protestant was writing the history



of the Sacred Order of St. John of Jerusalem, and Major Porter's book justified our apprehensions.

It is quite refreshing to turn from the Major's two heavy royal octavos, to the little book entitled "The Knights of St. John." It does not pretend to be a history of the order, and it consists of only 282 duodecimo pages, and yet whoever reads it in the spirit in which it is written, cannot fail to acquire a correct general idea of that venerable and illustrious fraternity. Many passages are eloquent and beautiful, and the whole tone of the book is Catholic and edifying. The authoress has all that strong perception of the beautiful and sublime which is one of the noble qualities of a woman's character. We will give our readers a specimen of her style. She thus describes the city of Acre, the first seat of the sovereignty of the Sacred Order, and which derived from it the name of St. John D'Acre.

"Beautiful as it is, even in our own day, it was yet more beautiful when, seven centuries ago, it was the Christian capital of the East. Its snow-white palaces sparkled like jewels against the dark woods of Carmel which rose towards the south. To the east there stretched away the glorious plain, over which the eye might wander till it lost itself in the blue outlines of hills on which no Christian eye could gaze unmoved; for they hid in their bosoms the village of Nazareth and the waters of Tiberias, and had been trodden all about by the feet of One whose touch had made them holy ground. That rich and fertile plain, now marshy and deserted, but then a very labyrinth of fields and vineyards, circled Acre also to the north; but there the eye was met by a new boundary,—the snowy summits of a lofty mountain range whose bases were clothed with cedar; while all along the lovely coast broke the blue waves of that mighty sea whose shores are the empires of the world. And there lay Acre among her gardens; the long rows of her marble houses, with their flat roofs, forming terraces odorous with orange-trees, and rich with flowers of a thousand hues, which silken awnings shaded from the sun. You might walk from one end of the city to the other on these terraced roofs, and never once descend into the streets; and the streets themselves were wide and airy, their shops brilliant with the choicest merchandise of the East, and thronged with the noblest chivalry of Europe. It was the gayest, gallantest city in existence; its gilded steeples stood out against the mountains, or above the horizon of those bright waters that tossed and sparkled in the flood of southern sunshine, and in the fresh breeze that kissed them from the west; every house was rich with painted glass,—for this art, as yet rare in Europe, is spoken of by all writers

as lavishly employed in Acre, and was perhaps first brought from thence by the Crusaders ; every nation had its street, inhabited by its own merchants and nobles, and no less than twenty crowned heads kept up within the city-walls their palaces and courts. The emperor of Germany, and the kings of England, France, Sicily, Spain, Portugal, Denmark, and Jerusalem, had each their residence there ; while the Templars and the Teutonic order had establishments as well as the Hospitallers, and on a scarcely less sumptuous scale.

“ But it was the great Xenodochia of the latter which was the glory of the place ; it rivalled in size, and in the magnificence of its arrangements, the first hospital of Jerusalem ; and with a grand and noble magnanimity, not only Christians, but Moslems and Saracens were received within its walls. Its fame became poetical, and it had its legends. Saladin, it is said, hearing of the surprising things done in the hospital of Acre, came in the disguise of a poor man, and feigning sickness, was entertained with a marvellous hospitality : ‘ For,’ says the French chronicler, ‘ the infirmarian came to him, and asked him what he would eat ; but he answered, ‘ The only thing I can eat, and do intensely desire, it were madness even to name.’ ‘ Do not hesitate in the least, dear brother,’ replied the infirmarian ; ‘ for a sick man here is given whatsoever he fancies, if gold can buy it ; ask, therefore, for what you will, and you shall have it.’ ‘ It is the foot of Moriel, the grand master’s horse,’ answered the pretended invalid ; ‘ they say he will not take a thousand bezants for him ; nevertheless, if that be not cut off in my presence, I can never eat a morsel more.’ So the infirmarian went and told all to the master, and he marvelled greatly. ‘ Well, since it be so, take my horse,’ he said ; ‘ better that all my horses were dead than a man.’ So the horse was led to the side of the sick man’s bed, and the groom armed himself with a hatchet, and prepared to strike off the fore-foot of the beautiful and noble steed. ‘ Hold, now,’ cried Saladin, ‘ for I am satisfied, and will be content with mutton.’ Then Moriel was loosed again, and led back to his stable, and the grand master and his brethren were right glad thereof. So, when the soldan had eaten and drunk, he arose and returned to his country, and sent thence a charter sealed with his own seal, which ran as follows : ‘ Let all men know that I, Saladin, soldan of Babylon, give and bequeath to the hospital of Acre a thousand bezants of gold, to be paid every year, in peace or war, unto the grand master, be he who he may, in gratitude for the wonderful charity of himself and of his order.’

“ We have called this a legendary tale ; but though, indeed, it reads more like fable than reality, it would not be out of harmony with the romantic and adventurous spirit of its hero, and might be truth, but that the death of the great soldan occurred in the very year when the Christians took possession of Acre. Nevertheless it

may instance the kind of reputation enjoyed at that time by the Hospitallers of St. John.”\*

A few pages before this beautiful passage, she thus describes that which in the Rule of the Order is called Hospitality.

“We find no mention of serving the sick in the formula of the vow, but the obligation of hospitality was indispensable. The grand master even took the title of the ‘guardian of the poor of Christ,’ and the knights were wont (according to Michaud) to call the poor and sick ‘our masters.’ We find various notices of their even undertaking the charge of deserted children,—a charge which seems to speak volumes for the loving tenderness of these soldiers of the faith. The succour of the sick formed, therefore, but one portion of the duties embraced by their rule under the name of hospitality; these guests of Christ had to be protected on their journey, as well as guarded and entertained on their arrival; and thus the military defence of the Holy City itself came naturally to be first among the acts of hospitality to which the order devoted itself, and which included at the same time the tending of the sick, the care of orphan children, the entertainment of strangers, the ransom of captives, and the daily clothing and support of the vast multitudes whom every day brought to the gates of their ‘Xenodochia,’ as the large hospital of the order was styled.

“A chronicler, writing in the year 1150, and describing what he had himself seen in his youth, says, that you might behold all these offices of charity going on at the same time: the knights mounting their horses to ride out to battle; the pilgrims crowding to the halls of the hospital; and the infirmary full of sick and wounded Christians, who were served and tended with the utmost care. The necessary expenses of so vast an undertaking readily account for the large endowments granted to the order in every Christian country; their lands and revenues were not held as furnishing the means of luxury to themselves, but were the funds ungrudgingly contributed by Christendom for the support of her pilgrims, and the defence of the sepulchre of her Lord; and thus the knights were made the holders and administrators of a mighty trust of charity.

“To carry out the full design of their foundation, they extended their views far beyond the territory of Jerusalem; hospitals were founded in all the principal maritime states of Europe, which were considered as affiliated to the mother-house, where pilgrims were received and helped forward on their journey, and furnished with escorts and protection in times of danger. These houses after-

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\* The Knights of St. John, ch. i. p. 9-11.

wards became the commanderies of the order, and had, of course, their own communities of knights ; for all did not reside at the principal seat of government, though, as we shall afterwards find, they were liable to be summoned thither at any moment, either to assist at elections, or to reinforce the troops actually engaged in war.

“In these hospitals, the knights led a strict community life, much of their time being given to active works of charity ; a circumstance to which is doubtless owing the superiority which the order of St. John always preserved over that of the Templars as a religious body ; for by their peculiar constitution, the military spirit could never become exclusive among them, but was always tempered and restrained by the obligation to the duties of Christian hospitality.

“St. Bernard, in his ‘Exhortation to the Knights of the Temple,’ has left us a picture of a military religious order, whose original was doubtless in part taken from the houses of the Hospitallers, who preceded the Templars by some years in their foundation. ‘They live,’ he says, ‘in a happy yet frugal manner, having neither wives nor children ; and calling nothing their own—not even their own wills : they are never idle ; but when not actually marching to the field against the infidels, they mend their arms or the harness of their horses, or engage in various pious exercises under the orders of their chief. Never does an insolent word, or the least-murmur, or immoderate laughter, pass without severe correction. They detest all games of chance, and never engage in the chase, or in useless visits ; they avoid with horror shows and buffoonery, together with songs and conversation of a light or dangerous character ; they are little studious of their dress ; their faces are brown with exposure to the sun, and their aspect is stern and severe. When the hour of combat approaches, they arm themselves with faith within and with steel without,—no useless ornament glitters on their armour or that of their horses ; their arms are their only decoration, and they use them valiantly in the greatest dangers, without fearing either the numbers or the strength of the barbarians, for their confidence is in the God of Armies ; and in fighting for His cause they seek either certain victory or a holy and honourable death.”

These brief extracts give to a Catholic an insight into the spirit of the Sacred Order. This subject now requires our mature consideration.

We need say little of the combination of the military and the religious character in the order. There is a common error among Protestants that the Knights of St. John and the Templars were priests, or at least ordained. Even Walter Scott fell into this mistake, for in the *Tales of the*

Crusaders he makes the Grand Master of the Templars offer to hear the confession of Monserrat, which is about as absurd as if he had represented a Protestant general ordaining an Anglican clergyman. The knights of the military orders always were essentially laymen. But the status of a layman was not in the slightest degree incompatible with that of a religious or monk. On the contrary, the first monks were laymen, and the old writers show that one of their temptations was the desire to leave their monastic life and become priests. The original idea of a monk was that of a layman living under the rules of a strict religious life, grounded on the evangelical counsels and scriptural examples. Now if war be lawful, there is nothing incompatible between a religious life and military duties. And, indeed, knighthood itself was impressed with a religious character. Our Lord sanctioned the profession of a soldier when He commanded soldiers to be content with their pay, and to do no injury. And He did not require the Centurion to relinquish his profession. Protestants, in calling the knights of the religious and military orders *military monks*, always fancy that in this term was implied a combination of the military with the clerical character. But this is altogether a vulgar error. They were and are laymen. The Order of St. John is called in Italian, *La Sacra Milizia Gerosolemitana*. But this is only because they are persons bound by a religious vow, though they are not clerics. And the clergy of the order form a separate class in the order, and never were knights, their duties being purely ecclesiastical. Thus the order is composed of three classes: 1. the knights; 2. the clergy, whose duties are only ecclesiastical, and who acted also as almoners; and 3. the servants at arms.

The union of the religious with the military character is the true secret of the greatness of the order of St. John. The Knights, though soldiers and laymen, were also monks, being bound by three religious vows, of poverty, chastity, and obedience; and without this monastic character the order could not have existed long, and would not have occupied the glorious position in the history of Europe, which no one can deny to it. Our authoress makes a valuable remark on this part of the subject. She observes, that one main reason why the Order of St. John survived the ruin of the other great military fraternity, the Templars, and was great and glorious long after that

event, is that the Order of St. John was essentially a hospitaller order, bound to the exercise of active and practical charity. The Templars, when they were not engaged in war, had no sufficient duty and occupation. They could not be a contemplative or a learned order, and they had not the duties of an active religious order. Therefore their religious character decayed, and they became proud and luxurious. We do not credit the worst charges against them, but there is undoubted proof that their religious discipline was entirely relaxed, and that at the time of their abolition they were a discredit to the Church to which they belonged. The Hospitallers, on the other hand, never forgot the duties which that venerable and glorious title points out to those who have the honour of belonging to it. The order could never be without its hospital where the novices and knights fulfilled their duties by attendance on the sick, who were received there without any distinction of nation or creed. And to the present day, no one can be admitted to the degree of a knight of justice in the Sacred order without the obligation of serving in a hospital, or at least performing such equivalent works of active charity as circumstances may allow. This wholesome discipline preserved the religious character of the order, and, accordingly, we find the principle of active charity pervading its history. Of this we find an instance after the loss of Rhodes, when the illustrious grand master, L'Isle Adam, landed in Sicily. It is thus related by our authoress:—

“On the first day of Lent the Christian fleet left the hospitable shores of Candia, directing its course still westward, with the purpose of taking up its temporary quarters in the harbour of Messina. The naval skill of England was even then universally allowed, and the conduct of the fleet was committed to Sir William Weston, now Turcopolier of the order. The carrack and ships of war made straight for Sicily: but the grand master did not accompany them; like a tender father, he had taken as his charge the care of his poor sick Rhodians, and a long and disastrous voyage he had, not reaching Messina until the first week in May. Fontanus describes his landing. He had been long and anxiously expected by his knights, who hurried to the shore to greet him. It was a sad but touching spectacle to see the miserable, shattered vessels, without anchors, rudders, and with torn sails and broken masts. Around their sovereign stood a ragged and sickly crowd; it was a marvel that they had made the voyage at all: but you might see where their confidence had been placed, and who had been their guide; for a



flag, torn and weather-beaten, was floating over the deck, whereon you might discern the half-effaced figure of the Mother of Sorrows, holding her dead Son in her arms, with the motto, *Afflictis spes unica rebus*,\* and this was the ensign of the fleet. Seven hundred knights stood on the shore, and with them mingled the nobles of Sicily and the ambassadors from foreign courts; but at the sight of such distress, and of their beloved grand master, who had chosen, like a good shepherd, to abide with the weakest of his flock, there arose from the illustrious body nothing but a wail of weeping; and this was the welcome of L'Isle Adam on the soil of Sicily. As he landed, the viceroy advanced to receive him; and then came the meeting with his knights—those who had been absent from Rhodes, and now could offer only their sympathy and their tears. The populace too pressed about his person, and, kneeling, kissed his feet and dress. Every one was bare-headed; and perhaps there has rarely been witnessed so touching a demonstration of honour to fallen greatness.

“The first care of the grand master, when lodged in the palace prepared for him, was to turn it into a hospital for his sick. True and worthy Hospitaller, he retained unchanged and unsullied the spirit of his religious vocation, and served as humbly and as untiringly as though he were a novice in the famous Xenodochia. Nor were his knights unworthy of so admirable a chief. ‘It was a moving spectacle,’ says Vertot, ‘to see these men, so formidable in war, now animated only with a spirit of charity; devoting themselves to the meanest services, carrying the broth to the sick, making their beds, and, as it seemed, concerned with nothing but their consolation and relief.’”

This beautiful passage shows how strong was the religious principle in that great military fraternity. Major Porter relates the same facts in these dry words. “Having established a hospital, and taken such steps as were in his power, to provide for the comfort of his followers.” . . . Such is the difference between the Catholic and Protestant writer! The Major has put together an arid chronicle of facts, and he seems to have no idea (as is natural) of the spirit of the subject on which he has written. Thus he passes over the very circumstances which show that spirit.

Another feature of the Sacred Order now claims our attention. We mean the aristocratic part of its constitution. Our readers are probably aware that no person could be admitted into the order who was not of gentle

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\* “In adversity our only hope.”



blood, and the statutes require candidates for admission to give proofs of unblemished birth and descent. These proofs are still required at the present day, and the effect is that, except in rare cases of dispensation, all who are not able to show high aristocratic qualifications are excluded from being knights of the order; and this is especially the case with those knights who are permitted to take the vows and become professed brethren of the order. Thus, no one who has ever been in any trade or in any business of a commercial character is admissible, and several employments are a disqualification. It may at first sight appear that such a regulation as this savours of pride, and vanity, and worldliness, and is therefore inconsistent with the character of a religious order. But a little consideration will show that this is not so. And indeed no good Catholic would entertain such a notion regarding an institute sanctioned by the Holy See. Let us examine the question.

No doubt the Church holds all men equal in the sight of God, and, indeed, it looks on Lazarus as superior to Dives, in a spiritual sense. But the distinction of classes or ranks, and their subordination one to another, are part of the public law of civil society. That subordination is a part of the secondary natural law, which springs from the two primary laws, whereon all those laws are founded which regulate mankind and govern the world. And thus we find that in all civil societies there is an aristocracy of one sort or another, that is to say, there is a subordination of classes, one being reputed and held superior to another. In different countries the nature of that subordination varies, but the principle is the same, and experience shows its necessity in the scheme of human polity which it has pleased God to establish in various forms on earth. The Church works on human society in all its various modifications and forms, according to the laws by which it is constituted, and according to its multifarious wants. The means of the Church are infinite. They vary from time to time, and they are not only adapted to every time, and every phase in human society, and every country in the world, but they are also fitted to every class into which the laws and customs of human society have divided men in different parts of the world. We cannot here dwell on this topic, which would lead us to the explanation of the most profound doctrines of civil and ecclesiastical polity.

The wonderful adaptation of the Catholic Church to every want of man, under every possible social and political circumstance, has caused Protestants to say, that the Church is governed with great human and worldly wisdom for the purpose of exercising power over mankind. But every Catholic sees in this, as in the whole history of the Church, the hand of God and the fulfilment of the promises made by our Lord.

These reflections furnish us with a key to the apparent difficulty which we are considering. In all parts of Europe the principle of an aristocracy of birth is established. That aristocracy has its peculiar wants, its faults, its sins, and its virtues. The Church has dealt with that class in society as an institution, as well as with every other part of human society. Here we see the reason of the aristocratic principle in the religious orders of knighthood. Those orders are intended for one class in human society, and therefore exclude the other classes. They are calculated to attract to a religious life a class of persons whose position peculiarly exposes them to the temptations of the world. They in a manner consecrate a military and aristocratic spirit and purify it from pride and luxury. And at the same time they array on the side of religion and bring into its service those sentiments of high honour and chivalry which belong peculiarly to persons born and bred in the superior class of society. Many have entered the order of St. John, and have had the spiritual benefits of the religious life under its discipline and obligations, who, if that order had never existed, would have remained in secular life. In fact, the vocation of a religious knight is a peculiar one, as it implies constant contact and connexion with secular life; and the religious and military orders satisfy that sort of vocation which leads a man to a religious life in the world, and among persons born in a high social station. Such institutions must necessarily be exclusive, because they are calculated for the benefit of a particular class. There is nothing in this that necessarily implies a sanction given to pride. True, the candidate for admission and profession must prove four quarters of nobility. But when he has done so, what does the order give him? What are his privileges after his profession? His first duty and privilege are to perform even the most menial offices for the sick, even the poorest of the poor. After he has proved the most splendid genealogy with the

most illustrious alliances and all the pomp of heraldry, he must go to the hospital and do the duties of a servant and a nurse among the poor and the afflicted; he must serve them, and instruct them, and console them in their sufferings. Dives must wash the sores of Lazarus and wait upon him. His pride must bow down before those whom the rule and statutes hold to be objects not only of care but of respect, for they are called "*i Signori poveri infermi, Domini pauperes infermi*;" and those words are full of meaning, for they show that the services rendered to them are to be looked upon, not as a favour and a condescension, but in the same light as a duty done to a superior. In accordance with these principles, the order gives no splendid robes and insignia to its professed brethren. The habit is black serge, and the highest decoration of the order is a cross made of white linen. And as soon as the candidate has been received and has taken the vows, the person who admits him thus addresses him.

"Noi ti riconosciamo essere servo dei Signori poveri infermi, e dedicato alla Difesa della fede Cattolica."

Such are the titles of a professed knight of the Sacred Order. The first of them is that of servant of the sick poor, *servo dei Signori poveri infermi*. Those words beautifully express the spirit of the order of Hospitallers. Another extract from the Ceremonial of profession cannot fail to gratify and instruct our readers. That ceremonial is in the form of a dialogue between the new knight and the person receiving him, who is called the *Giver*.

"Here the Giver will take the mantle, and showing it to the recipient knight, will say:

"G.—This is our own proper habit made in the form of the garment of camel skin, which, for his severe penance, our Patron St. John the Baptist wore in the desert. Therefore, with this admonition, striving to do penance for your sins, you must follow virtue during the remainder of your life."

"Then, showing to him the sleeves of the habit, the Giver will say:

"G.—These sleeves of this habit should not only press your arms, but also compel you, by reminding you of the true obedience of our Sacred Religious Order, to the exercise of works of mercy, and the defence of poor widows, infants, and other persons deserving of compassion. Therefore you must often remember this obedience."

"He will then show the Cross, saying:

"G.—This is the sign of the True Cross, on which Christ died

for us sinners. We command you to wear it always, made of white linen, on your left side, and over your heart, in order that with your right arm you may defend it; remembering always in your heart that it is of eight points, signifying to us the eight Beatitudes,—that we may endeavour by our good works, to obtain them from the grace of God through Christ our Lord.’

“*He will then put the Mantle on the Recipient. This being done, he will show him the cord, naming one by one the mysteries attached to it,—that is to say, the Cord, the Rods, the Dice, the Sponge, the Column, and the Cross, saying :*

“‘G.—We show you this cord that it may be to you a remembrance of the bitter Passion of our Lord Jesus Christ, which He suffered for us on the Cross; remembering often that this is the Cord with which He was bound, this is the Scourge with which He was smitten, this is the Column to which He was bound and bitterly scourged, these are the Dice, this is the Sponge, and finally, this is the Cross on which our Lord Jesus Christ suffered for us, which is to be your guide and your ensign in all your enterprises, and for the whole time of your life.’

“*Then the Giver will take the Cord, and put it on the neck of the Recipient, saying :*

“‘G.—This is your yoke, which, as our Redeemer teaches, is sweet and light; and it will lead you to eternal life, if you know how to bear it with the patience and the charity which are expected of you as a true religious Monk and an honourable Knight. May God grant you the grace to do so in this world, and in the world to come, the reward of glory in *sæcula sæculorum*. Amen.’”

This extract will give some idea of the beautiful and edifying ritual of the Profession of a Knight of St. John, every part of which is full of religious meaning and of piety; and its perusal will give a better notion of the spirit of the order than Major Porter’s two heavy volumes.

The greatest blot in that work is to be found in pages 336 and 337, where the Major falls into the blunder of stating that “in the years 1826 and 1827, three several instruments of convention were signed in Paris, by the Languages of France, with the consent of those of Spain and Portugal, authorizing the reorganization of the venerable Language of England.” The fact is, that at that time the Spanish and Portuguese branches of the order had ceased to exist, and they could not therefore consent. In 1814 a commission of the Languages of Auvergne, France, and Arragon, was constituted for the affairs of those languages *exclusively*. In 1825 it was dissolved by the same authority that created it, i.e., the Lieutenant Grand

Master and the Sacred Council of the Order. The commission, while it existed, could have no power to reorganize the Language of England, because its faculties were restricted to the affairs of the French branches of the order. But after its dissolution a dishonest secretary, who had been deprived of his cross, together with an adventurer, calling himself Marquis de la Croix, swindled a few credulous Englishmen, by making them believe that they had the power to reconstitute the English Language of the Order, which had been extinguished by Queen Elizabeth. The Major adds that, in 1831, Sir Robert Peat was elected Grand Prior of England. He might as well have said that Sir Robert Peat, (a respectable Protestant clergyman and physician,) was elected Grand Turk. He then proceeds to inform his readers that "on the 24th of February, 1834, proceedings were taken before Sir Thomas Denman, Chief Justice of England, when the Grand Prior formally revived the corporation of the English Language under the royal patent of Philip and Mary, and took the oath *de fidei administratione*." It is difficult to know what to say about such nonsense as this. The Charter of Philip and Mary, which the Major prints in his appendix, shows that there never was any "corporation of the English Language." The Charter incorporated only the Prior, Bailiffs, and Commanders of the Hospital of St. John, under the title of the Prior and Brethren of the Hospital of St. John of Jerusalem. The knights, though part of the Language of England, were not included in this corporate body. The revival of an extinct corporation by an individual taking proceedings before the Chief Justice, is a legal phenomenon which we defy the fifteen judges and all the Inns of Court to explain. We need scarcely add that no such proceedings ever took place, and Lord Denman would indeed have been astonished at any one coming before him and requesting to take the oath "*de fidei administratione*." We believe the whole foundation of this ridiculous fable is, that Sir Robert Peat having received the Order of St. Stanislaus from the Emperor of Russia, in whose service he had been as a physician, was advised to take the oath of allegiance in the Court of King's Bench, with a view to establish his claim to the title of a knight in England. Major Porter gives the names of the persons who are now said to assume the titles of dignities in the pretended English Protestant

Langue, including amongst them a notorious impostor now deceased, who pretended to be the representative of an ancient family and a baronet. This individual made overtures to the Lieutenant Grand-Master of the order to obtain recognition, and represented to him that the "Langue of England" was a legally constituted body corporate, recognized by the law of England. In consequence of this impudent pretence those overtures were listened to. But at last the absurdity of the whole thing was explained to the Chiefs of the S. Order, who broke off all communications with the pretended Langue. In the meantime a book had been published in support of the claims of that society, in which the names of the Count Colloredo, Lieutenant Grand-Master, and of the dignitaries composing the Sacred Council, were introduced as connected with the English Protestant society. This audacious act obliged the authorities of the order to take a decided step. A protest, dated the 16th December, 1858, was therefore issued, under the hand and seal of the Vice-Chancellor and the Magisterial Secretary of the order, in the name of the Lieutenant Grand-Master, the Chief of the Order, denying all connection between the Sacred Order of St. John of Jerusalem and the society calling itself the Langue of England. Copies of that document were forwarded to H.R.H. the Prince Consort, who is, by special dispensation, an honorary Grand-Cross of the Order, to the Lord Chamberlain, and to the principal Herald Garter King at Arms.

Major Porter says, "grave doubts exist as to the legitimacy of this revived branch of the English Language." But notwithstanding this qualification, his grossly incorrect statements in pp. 336-7, vol. ii., must seriously injure the credit of the book, because they show his incapacity to discriminate between truth and error.

The English branch of the order has been extinct ever since the reign of Queen Elizabeth, and the death of the then existing English knights. The statute 32 Henry VIII. recites that the Knights of St. John have maintained the power and authority of the Pope, and affirmed him to be the supreme and chief head of Christ's Church. It therefore provides that any one wearing the cross, or using the name of knight or any dignity of the order, shall be guilty of *præmunire*; it dissolves the corporation of the Hospital of St. John in England, and gives all the lands and goods



of the order to the king. Thus the corporate body suffered a species of civil martyrdom. By statute 1. Mary, c. 1. § 5, the *præmunire* created by the preceding statute is repealed. Thus the order became no longer illegal. By letters patent of Philip and Mary, dated 2nd April, 1557, reciting that Cardinal Pole, as legate of the Holy See, had restored the Hospital and Priory of St. John of Jerusalem in England, and the Prior and Commanders of the Hospital of St. John,—the Prior, Bailiffs, and Commanders of the Hospital of St. John in England, were incorporated under the name of the Prior and Confreres of the Hospital of St. John of Jerusalem in England. But Queen Elizabeth seized all the property of the order, and the body corporate created by the charter of Philip and Mary became extinct. Since that time the English branch of the order has never been revived, though foreign titulars have from time to time been appointed to some of its dignities, for the purpose of formally representing the English Langue at chapters. Sir Thomas Tresham was created Lord Prior at the restoration of the order in 1557, and sat in parliament by virtue of his office, as first baron of England. He was summoned to the two first parliaments of Queen Elizabeth, but in 1559, when she destroyed the order in this country, he retired from England with Sir Richard Shelly, the Turcopolier, or Conventual Bailiff, and Sir Felix de la Nuca, the Bailiff of Egle. He died at Malta in 1561.\* On his death Sir Richard Shelly succeeded to the post of Lord Prior, but he never returned to England. He was the last Turcopolier and the last Lord Prior of England. The exact time of his death is uncertain. In 1782, the Grand Master, De Rohrn, revived a shadow of the English branch, and combined it with that of Bavaria, under the title of the Anglo-Bavarian Language.† This Language no longer exists, and the Sacred Order now consists of only the two Languages of Germany and Italy, comprising four Grand Priories, that is to say, those of Rome, Lombardo-Venetia, including Parma and Modena, the two Sicilies and Bohemia. The English knights suffered persecution in the reign of Henry VIII. The Commander Ingley, Sir

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\* Porter, *History of the Knights of Malta*, vol. ii. p. 331.

† Ibid. Boisgelin, *Hist. of Malta*, vol. ii. part 3, p. 9.



Adrian Forrest, Sir Adrian Fortescue, and Sir Marmaduke Bowes, died on the scaffold. The portrait of Sir Adrian Fortescue is still to be seen in St. John's church at Malta, with a sprig of palm in his hand, the emblem of his martyrdom. Sir Thomas Mytton and Sir Edward Waldegrave died in prison, and Sir Richard Bell, Sir James Bell, and Sir John Noel, were compelled to retire to Malta.\*

A few remembrances of the order still remain in London. The name of St. John's Wood reminds us that it anciently belonged to the Hospitallers, and it was again granted to the order by the charter of Philip and Mary, under the description of—"All that our wood and plantation called Great St. John's Wood, lying near and adjacent to the Park of Maribone, in our county of Middlesex." In Clerkenwell there is St. John's Square and Jerusalem Passage, and a noble gateway, part of the priory, on which are carved the arms of Sir Thomas Docwra, who was Turcopolier in 1498, and Lord Prior of England in 1501, and was at the siege of Rhodes in 1480. The Temple was granted by Edward III. to the Order of St. John, and they possessed it until the 18th year of his reign, when they demised it for the rent of ten pounds per annum to certain students of the common law, who are supposed to have removed from Thave's Inn, Holborn. Soon after the pillage of the Temple by Wat Tyler, the students had so increased in numbers that they were divided into two bodies, called the Society of the Inner Temple, and the Society of the Middle Temple, but continued to hold their houses as tenants of the Knights Hospitallers until the suppression of that order in the reign of Henry VIII.† The Society of the Middle Temple still use for their badge the *Agnus Dei*, or "lamb and flag," the badge of St. John the Baptist, and on the flag the arms of the Order of St. John. And the arms of the same society are those of the Order of St. John of Jerusalem, with the difference that the cross is gules on a field argent, instead of argent on a field gules. This is not extraordinary, as the Lawyers of the Temple were for two centuries tenants of the Order of the Hospitallers. It

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\* Porter, p. 327.

† Herbert. *Antiquities of the Inns of Court*, p. 187, 190.

would be interesting to ascertain whether the records of the two societies contain any memorials of the intercourse with their illustrious landlords. It appears by the Report of Prior Philip de Thame to the Grand Master, Elyan de Villanova, A. D. 1338, published by the Camden Society,\* that at that time the Temple Church was served by one Brother Chaplain, or Regular Conventual Chaplain of the Order, and eight secular chaplains. There is also an entry in the same report, in the following words: "Item in reparatione Ecclesiæ novi Templi London, et magne sale domus fontis clericorum," lxviii. s. iii. d.† The meaning of this passage does not appear.

Our space does not permit us to enter into explanations of the condition and prospects of the Sacred Order at the present time, and indeed the writer of this Article could not do so without the permission of the superiors, but some general reflections on the subject will perhaps be expected.

Some people in this country are disposed to be angry when they are told that the Order of St. John of Jerusalem has never been extinct, and still exists. Of this illiberal feeling we find an instance in the preface of the book of the Camden Society above referred to. The writers of that preface, Messrs Larkin and Kemble, bestow violent abuse of the coarsest description, on the present members of the order, because they wear "a white cross on a black coat." Those writers also fall into the gross error of stating that the cross is given by "some king or other," whereas if they had consulted such a common book as the *Almanack de Gotha* they would have seen that the Order of Malta is an independent body, recognized by all Europe, and that its cross *is not a decoration given by any king or government*. So we have heard people say that a knight of St. John ought to wear armour and carry a lance. They might say the same as reasonably of a knight of the Garter. They might as well expect to see Lord Palmerston and Lord Lansdowne ride in Rotten Row in armour, arrayed like Sir John Chandos or Edward the Black Prince. They might as well expect to see the Duke of Norfolk Earl Marshal, in the helmet and armour of Thomas of Brotherton. These sort of strictures are simply captious and absurd.

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\* p. 202.

† Ibid p. 218.

The Order of St. John is not what it was, for it has suffered great reverses, and lost its dominions, and a great part of its property. But it is still a wealthy and dignified fraternity, including among its members many persons of the highest rank and character, illustrious and reverend Cardinals and prelates, and royal and imperial personages of both sexes. It represents a glorious history and most venerable traditions. But above all it is a *Catholic* and a *Religious* order, endowed by the Holy See with many privileges and blessings. It must be a means of sanctification for those who enter it with sincere religious motives, and who desire to fulfil its obligations in the degree in which they are received. It is a great help and comfort to those who wish to embrace the religious life, but who are precluded by circumstances from leaving the world. To them the vows and duties of the Sacred Order of St. John cannot fail to be a protection against temptations, a solace in time of trouble, consolation for the past, and encouragement for the future. The Cross of St. John, the Cross of the Beatitudes, must bring a blessing if it be received with proper dispositions. To Protestants all this seems to be no better than superstition, because they are incapable of understanding these things. But our Catholic readers cannot fail to appreciate our meaning when we say that the Sacred Order of St. John must be looked upon in a religious light even by those, whether knights or ladies, who receive its cross without any intention of taking the vows. But they ought not to neglect the duty of saying the daily office if they wish to derive real benefit from the order. They should also nourish a warm devotion for the Patron, St. John the Baptist, and for the Blessed Virgin, who, under the title of Our Lady of Philermos, was so great a patroness of the order. As for the Professed Brothers, their obligations are of a more stringent character. And they form the heart of the order. They are no longer required to defend Christendom against the Turks, but their character of Hospitallers embraces the practice of every work of charity and especially attendance on the sick. They are also bound to render themselves fit for military duty, and be ready, whenever they are required, to serve their Church or their country. Nothing in all this is antiquated nor obsolete, nothing is romantic nor impractical. As a Knight of St. John would now use the rifle and revolver instead of the lance and cross-hilted sword, so his duties

are varied by the progress of civilization and the changes of circumstances. But the spirit of the institution is the same under Colloredo that it was under D'Aubreson and L'Isle Adam. And it still contains within itself the same spiritual and temporal uses, the same means of individual improvement and sanctification, and the same utility to suffering and afflicted humanity.

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ART. VII.—*Sermons, Lectures, and Speeches, delivered by his Eminence Cardinal Wiseman, Archbishop of Westminster, during a Tour in Ireland in 1858.* With a Lecture, delivered in London, on the "Impressions of his Tour." Revised by his Eminence. With a Connecting Narrative. Dublin: Duffy, 1859.

WE think it a matter of congratulation that Cardinal Wiseman has shown himself superior to that false humility which might have led him to shrink from the publication of a volume so honourable to himself as that which records the sayings and doings of his recent Tour in Ireland. He must have foreseen all that would be said, and all that has been said, of an act so liable to misconstruction and so certain to be misconstrued. The *Times*, the *Saturday Review*, and a host of less distinguished servants of the English public, have always an eye ready to detect his Eminence's fancied misdoings, and a pen ready to comment on them in their well-known style of censorship, and it was not to be expected that they would lose so good an opportunity of playing up to anti-catholic, and anti-Irish prejudice as that which the publication of the facts of this memorable tour would supply. It is so specious, so unanswerable, to ascribe everything which a man says about himself in public to arrogance and vain-glory, that one foresaw the manner, and could almost forecast the very terms, in which Cardinal Wiseman would be rated for sanctioning the record of scenes "*quorum pars magna fuit*," and telling a tale of which it is undeniable that he is, in one sense, the hero, though certainly not the claimant of a triumph.

We regard the contempt of such criticism as an act not of vain-glorious arrogance, nor of rash defiance of public opinion, but rather of moral courage, nay, we will even add, of true humility. One of the most subtle forms of pride is the affectation of modesty. Egotism, so-called, is quite as often the result of self-forgetfulness as of the spirit of self-aggrandisement. It is recorded, we think, of St. Francis of Sales, that when some foolish person would have dissuaded him from letting his portrait be drawn, as if such an act implied too great an idea of his own importance, he replied, in effect, "On the contrary, it would be making myself of too much importance to refuse such a request. 'Take my likeness, and welcome, if it will give any one a moment's innocent pleasure.'" Cardinal Wiseman has a sufficiently good reason for giving himself into the hands of his partial friends, and letting them do with him as they please. More than one great public object is answered, and could not otherwise be answered, by the permanence thus given to the facts, words, and impressions of his most remarkable Tour in Ireland; and he would in our judgment have foregone, from purely selfish motives, a positive opportunity of subserving the cause of peace, charity, and religion, had he allowed himself to be deterred from sanctioning the publication of this volume by a dread of the personal imputations to which he thus rendered himself liable.

And yet the publication of the facts in any shape involved the publication of them in their integrity. To have omitted one single address, or reply to an address, to have slurred over one incident, however insignificant, in which could be read the loving faith and enlightened devotion of the people, because it happened at the same time to involve some especial tribute of confidence or affection towards himself, would have been to mar the accuracy of the work as a faithful history. Once undertaken, it must be gone through with, and carried out in all its details. The alternative lay between publication in full, or suppression in toto; and who that loves Ireland, and loves the Church, could have desired that Cardinal Wiseman should have elected for the latter of these alternatives?

Assuredly, were a critic so disposed, he might easily extract from this volume the materials of a panegyric upon its principal subject. Let others, if they please, and as they well may, descant upon the marvellous evidence of

versatility which it exhibits ; of the facility and the felicity of reply to all speakers, however different in class, profession, or antecedents ; of the power of seizing favourable opportunities for serviceable applications, of the peculiar tact and talent, in short, which are required in dealing with the various occurrences, or rather emergencies, of what we presume to term (for really there is no other phrase which meets the idea) a royal progress.\* “Non noster hic sermo est.” But if our idea of the Cardinal's feelings be a correct one, this is precisely *not* the line of criticism which he would desire his volume to suggest. However true in itself, eloquently expressed, and kindly intended, its tendency is to bring out just that feature of the volume which the Cardinal's best friends must desire to see subordinated to its great public objects. The publication of such a volume would unquestionably be a glaring act of egotistical display, were it not (as it is) an act of self-sacrifice in a cause which could not have been adequately promoted otherwise, than by the very heroism of unselfish indifference.

For Cardinal Wiseman was bound, in our humble judgment, even by the most imperative obligations to the cause of religion, to give an enduring form to the facts of this memorable Tour. Had other considerations been absent, the known wishes of the Holy Father left him no option. But the great and almost new phenomena which his Tour elicited, rendered it necessary that we should not be left to glean the knowledge of its results from the scanty, imperfect, and ephemeral information supplied us, often through a distorted medium, and always in a most unsatisfactory and disjointed form, by the newspapers of the day. It is to be remembered, again, that in the various addresses which Cardinal Wiseman had the opportunity of delivering, during the progress of his tour, he expressed many opinions of a most important bearing upon the religious and social interests of Ireland ; many which eminently tend to heal breaches of long standing between the English and Irish portions of the Church ; some which contain suggestions of great practical value towards the correction of still existing evils. It is of obvious use that we should all possess the means of studying these lessons, or aphorisms, at our leisure, and in

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\* Vid. Rambler. (New Series) May, 1859.



words not taken down by reporters from extemporaneous addresses, but ratified, or modified, or rectified, as the case may be, with all the advantages of leisure, and all the fruits of experience, by their author himself.

In thus justifying the publication of this volume, and all which is essential to its contents, it is not necessary that we should include in our commendation, every phrase in which the narrative is couched. It may be that there is occasionally an absence of simplicity, a studied use of the vocabulary of courts, an almost sensitive jealousy of the rights of title, or the prerogatives of office, which, as a matter of taste, we might wish could have been avoided. But for none of this is the Cardinal responsible. It is language dictated by a genuine loyalty of feeling, somewhat tinged, perhaps, with the hues of a peculiarly Irish enthusiasm. How this feature of the narrative was to be escaped, save by a complete re-writing of the whole history, we want the skill to discover. And, again, not a little of this peculiarity is inherent in the subject, which must have been other than it is, if it were to be depicted in inexpressive colours, or to have found its verbal counterpart in phrases of that class which the poet describes as "trailing along the ground."

We have spoken of great public ends which have been answered by the results of the Cardinal's Irish Tour. The following appear to us to have been some of them.

First and chiefly, that Tour has brought out in the most indisputable manner, the simple devoted faith and zeal of the Irish character. We have no wish to institute unnecessary comparisons between the Catholic feeling of different nations. Such comparisons are always invidious, and frequently unfair. Great allowances must be made for national character and temperament. Something, too, has to be deducted from any such exhibition in Ireland, on account of a certain side in the Irish character which is attracted by qualities not simply religious, such as great literary reputation, eminent talents, ready eloquence, and even that most purely accidental distinction of all, a dignified and commanding presence. We allow for all this; yet we say, unhesitatingly, that nothing else than a pervading spirit of love and loyalty towards the Church, is any adequate explanation of the manner in which Cardinal Wiseman was received. He might have been all that he is in a merely worldly point of view; and had



he not been a Catholic, a zealous Catholic, a priest, a bishop, a prince, but above all, a champion, of the Church, he would have lacked the reception he actually met with, just in the measure in which he was deficient in one or more of these gradations of claim upon the sympathy of the Irish people. We know but of two instances which admit of being compared with the reception of Cardinal Wiseman, and a comparison with both of these, will serve to bring out our meaning. The first and less prominent of the two, is that of our present gracious Queen, who, on her first visit to Ireland after her accession to the throne (for of the last we do not speak) was very warmly welcomed, insomuch that some people were apt to make it a reproach against the Irish that, forgetting, for the moment, all those national insults and injuries of which an English Sovereign might be thought to embody the personal representation, they received the Queen with the manifestations of a mere stupid and indiscriminating loyalty. The best answer to this reflection is, that when the Queen next visited Ireland, after the passing of the Ecclesiastical Titles Act, she met with a far less enthusiastic reception. But it is likewise true to say, that Her Majesty, though a Protestant, and though the representative of a nation, upon which Ireland has no reason to look with favour, and whose misdeeds she can only forget in the measure in which she forgets that Faith which is her most cherished heritage, has also that especial claim upon the respect of a chivalrous people which her sex gives her, and that claim to much more than mere gallantry, which she derives from being the head of the purest Court which this country has seen since the days of the most saintly of her Catholic sovereigns; and, what is yet more, from being herself the model of many domestic and social virtues. Perhaps if there be one name, more than another, in the female Protestant aristocracy of this country (and such names are neither few nor insignificant) which suggests the idea of that austere purity which is so deeply prized in Ireland, it is the name of Queen Victoria. Need we then seek the explanation of the welcome she met with from the Irish people in any fact less honourable to them than this—that in her they witnessed as near an approach, as Protestantism allows, to those pattern specimens of female excellence which, as illustrated by the associations, and matured by the graces, of the Church, elicit from them a

far higher than patriotic enthusiasm, a far more devoted than any merely chivalrous homage?

Yet, great as were the claims of Queen Victoria upon the enthusiasm of a chivalrous nation, the comparative failure of the display in her favour, does but set in more marked contrast the reception of the Cardinal. The presence even of a virtuous Queen could elicit no tokens of loyalty in any way similar to those which accompanied the progress of Cardinal Wiseman's tour. The peculiar feature of the demonstrations occasioned by his visit, was their warm-hearted and eminently religious *affectionateness*. Again and again we read in the "connecting Narrative," of all classes pressing forward, not impatiently, not rudely, but earnestly and devotedly, to receive "His Eminence's benediction." Such a motive for their zeal, such an aim in their exertions, gave a character to the whole movement, and became, as one may say, its measure and its test. "Hurrahs," tossing of hats and caps, waving of swords, or even of handkerchiefs, are very well in their way, but they are as nothing, in love's estimate, to the pious acclamations, the devout homage, the affectionate courtesies, of a religious welcome. It is for bishops and priests, not for kings and orators, that the Irish reserve those graceful tokens of welcome which accord with the poetry of their language, and symbolize the vivid fervour of their imaginations. It is they, and not the others, whose path the Irish strew with flowers, the hem of whose garments they kiss with respectful eagerness, the imposition of whose consecrated hands they seek for their innocent children, or their afflicted neighbours. What a grand and impressive spectacle was the Cardinal's entry into Dundalk! For miles around, the country was all but depopulated; the groves and the gardens were laid under a heavy contribution, in order to do honour to the distinguished visitor. The shops were closed as on a national holiday; banners waved, bands played, windows were gay with decoration, and alive with observers. It seemed as if, in each house, there was a gathering and a preparation as for some special domestic festivity.

The visit of our gracious Queen was one incident in Ireland's later annals, with which the visit of the Cardinal may be brought, however advantageously, into comparison. There is another, and a better instance. Who is there that knows not the enthusiasm which, from time to time,

would greet the presence, or hail the eloquence, of O'Connell? Now we make bold to say that an eye-witness, or an ear-witness, would have been able to detect those precise differences between the reception of Cardinal Wiseman, and one of the demonstrations in favour of Ireland's great political chieftain, which befitted the difference of the occasions, and corresponded with the several characteristics of the subjects. We repeat, that what distinguished the welcome of Cardinal Wiseman from any mere chivalrous interest, on the one hand, and any mere national demonstration on the other, was its religious character. This was the feature which at once intensified and subdued, deepened and calmed it.

It differed again from other movements with which it may be compared, in having been anything but a simply personal demonstration. The Irish saw in Cardinal Wiseman, not an individual only, but the representative of a great principle, and the defender of a cause dearer to them far than life itself. It was not that they loved him better than certain of their own admirable bishops, but he brought before them more exactly the image of the great Father of Christendom. He did this better, in one respect, than even an ambassador; for he did not so much represent the See of Rome as express it. The Sacred College is so bound up with the Pope, as to be almost, so to speak, part of the Papal idea. He who is in virtue of his dignity, a counsellor of the Holy Father, and an integral part of the body which gives formal expression and visible effect to the divine election of the Sovereign Pontiff, is neither unnaturally, nor untruly, regarded by an intelligent population, as the exactest counterpart which their eyes are ever likely to see, of the presence in which the power of the Church is concentrated, her succession guaranteed, and her magnificence personified.

And this, accordingly, we are disposed to place in the first rank of the advantages which have accrued from the Cardinal's visit to Ireland. It was the occasion of bringing out, with most unequivocal distinctness, the genuine "Ultramontanism" of the Irish nation, while, in its turn, it has contributed to strengthen those ties which bind that nation to the centre of unity.

Another and equally happy result which we anticipate from this visit, is the cementing of the bonds of sympathy between the sister islands. We have never been in the

number of those who are disposed to exaggerate the prejudices of the Irish against the English. We have ever found that community of faith has been enough to secure a victory over these prejudices. The main cause of disagreement between the two nations is difference of religion; and so far from believing, with certain anti-Irish cynics, that the return of England to the faith would tend to throw discredit upon that faith in the minds of the Irish, we believe, on the contrary, that this alone is wanting to the complete extinction of every unkindly feeling and every rankling remembrance in the breasts of the two peoples. Here, again, the Cardinal's visit has actually tended to promote the spirit of which it has indisputably proved the existence. A conclusive proof to our own minds of the readiness with which the Irish can forget all national grievances in the community of faith, has been exhibited in the heartiness with which they have always welcomed the English converts. In no part of the Christian world do converts, of whatever nation, find themselves more thoroughly at home than in Ireland; but English converts appear to be prized even above others. We were not, therefore, unprepared for the enthusiasm with which the Cardinal was received. It is true that he is connected with Ireland by family ties. But he is eminently English, as distinct from Irish, in character, and in the antecedents of his personal history. He began his ecclesiastical education at a college in England, and completed it amidst Englishmen at Rome. The English college at Rome has ever preserved, rather distinctively, its *national*, in subjection to its Catholic characteristics. From Rome the Cardinal returned to England as coadjutor bishop of an English district; and how essentially English has been his later history, is amply proved by the events of the last few years. Moreover, he has been less in Ireland perhaps than most of the priests in his own diocese, and had at one time even to defend himself against the charge of an "anti-Irish" spirit and policy. We cannot, therefore, but trace, in the enthusiasm with which he was greeted, one further proof of a desire on the part of this pre-eminently Catholic people, to overlook in the person of an English Archbishop, whom they regarded, with good reason, as a bold and successful champion of the faith, the long course of persecutions and indignities which it has suffered at the hands of the nation, the Catholic element of which that

Archbishop was felt by it to represent in the most signal prominence.

It is only justice to the Cardinal to add, that he did his utmost to turn this generous feeling to good account. Various as were the topics on which he found occasion to dilate, there are two which will be seen to pervade his addresses more uniformly than any others. The one, is the view which might be taken of his visit as a means of tightening the bond between Ireland and the Holy See; the other, the light in which it might be regarded as a visible proof that Ireland and England are two great links in the chain which depends upon that common centre.

We have scarcely left ourselves space to touch upon another department of the subject which the volume under review enables us to illustrate. We allude to the impressions which the Cardinal brought home with him from his visit. These he has embodied in the form of a lecture given before a large and enthusiastic auditory at the Hanover Square rooms, and printed among other documents in the volume before us.

From this able and interesting essay it appears that, although the Cardinal's hands were full of work during his short stay in Ireland, what with answering addresses, preaching sermons, proposing toasts, delivering lectures, and seeing sights, his mind was all the time not only receiving impressions, but arguing out conclusions on the social as well as the religious condition of the Irish people. He surveyed the external aspect of the country with the eye of an agriculturist; the facts which he gathered he then proceeded to test by the principles of political economy, and he here presents us with a masterly and comprehensive summary of the result.

"Let any man go through Ireland now," says the Cardinal, "who has been there before, and note the herds and flocks, the stock throughout the country, and he will find things not only importantly, but totally changed. He will look in vain for races of animals which he saw years ago. In every department farmers and yeomen, and all who are occupied with the care of stock, are up to the mark in whatever relates to agricultural industry. You meet everywhere the best breeds of cattle, excellently managed. The face of the country in this respect is changed. I will not say you will find the finish of the English farm; but remember that you have to deal with a people who, by their own efforts, comparatively without capital for hundreds of years, after paying rack-

rent, have succeeded in improving their land. You cannot expect that they will indulge all at once in luxuries, it is enough that they are improving at a rate which is astonishing to those who have paid impartial attention to the subject.”—(Tour in Ireland, pp. 385-6.)

These results, the Cardinal concludes, have flowed out of the vigorous efforts made by the people to recover their nationality after ages of oppression. They tried, in the way of natural reaction, the wild course of revolution which did but make matters worse. Then fell upon them the hand of God's fatherly visitation; “It wounded, and it healed; it cast down, and it raised up. It always does so; and Ireland, from the touch of that fatherly hand, severe as it appeared, has risen to a magnificence of prosperity, which promises more even than any one would have ventured to prognosticate.”—(Ibid. p. 388.)

The very gait and countenance of the people indicate that their hearts have been relieved of a heavy burden, and can now expand with the generosity which is natural to them. Even the Cardinal has met with no similar instance.

“The manners of the people, their looks, the countenances may be different, but one expression pervades them; there is in every one of them, wherever you go, a warmth and an expansion of heart which is totally different from what you find—from what I have found—in any other country.

“There is a spontaneity of expression; there is a facility of giving utterance to their thoughts; there is a brilliancy, even a poetry, about them which animates the whole of the peasantry. They have a smile on their countenance which is bright and cheering; the light of their eye is not only brilliant but tender; and I was surprised, in the multitude of persons whom I saw congregated, to the amount of thousands, to observe the sort of natural gentleness of bearing which belongs, most markedly, to a moral people. I never, in the whole of my tour, and I have said my observation extends to tens of thousands of people, saw a rude act by one man or youth to another. When a crowd of persons came together, one group of them, who had gratified their feelings, would give way and say, ‘Now let others come forward,’ with a considerate and courteous manner which would do honour to any assembly of the wealthy, and what we call the educated classes. Gentlemen, I believe a moral peasant is more of a gentleman than one who is merely bred and born so.

“The manner, too, in which they make known their gratification or their joy, is the same throughout. I have seen for miles along the road houses shut up, the windows and doors closed, but adorned



with flowers and boughs, when they who had left behind them their emblems of their good feelings could not receive a word or a look of commendation in return. It was their way of showing the spontaneousness of their feelings, and this was the case all over the country. The same form of demonstration seemed to prevail everywhere."—pp. 391-2.

But the crowning consolation of all is, that this increase of temporal prosperity has been purchased at no expense of Ireland's faith and devotion to the Church. The Cardinal's testimony to this most important fact is strong and unambiguous.

"Having seen this, the next natural question to ask is, what is the first feeling which this great development has produced on the Irish mind, and what are the demonstrations of this progress? Perhaps, if you look sometimes at—I do not know what to call them exactly—papers, or articles, or reviews, about Ireland, you will find a sort of exultation betrayed, that in proportion as Irishmen are becoming more acquainted with the good things of this world, are acquiring land, seeking to possess territory, aiming at becoming great, they are falling off in regard for the religion in which they had been wrapt for years; they are becoming more independent of their clergy; less attached to the 'superstitions' of their creed—emancipating themselves from a certain great city in Italy, and its sovereign, so that by degrees, one may expect to get them to read Socinian pamphlets, to forget their faith, and to become comfortable freethinkers. Allow me to tell you that the best way to examine this is by evidence. I cannot tell what passes in the Irish, more than in any other mind; but I know that there are certain principles which I can apply towards forming an estimate of it. When you tell me that as a man grows rich, he becomes less anxious about his religion—that he cares less for his creed, and his priests, the first evidence that I should expect is, that he has got a more comfortable house for himself (quite natural) that as he becomes richer, he will give a better education to his children, (quite right); but I should expect that when the parish priest comes and says, 'You have had a good harvest;—we must have a new chapel—I shall expect you to give something handsome;' he would button up his pocket, and say: 'I have learned not to think so much of the necessity of religious matters, and I have better purposes for my money, so you must not look for much from me.' That would be evidence that the man has grown tired of his spiritual duties and advantages. But I have found it quite the contrary. For from one end of Ireland to the other, entirely by their own efforts, the people are giving outward demonstrations of immense liberality to the Church, and of almost incredible magnificence in their ideas of what ought to be done for religion."—ib. p. 393-5.



Many as are the important facts which the Cardinal's Tour has drawn out, this latter is by far the most important of all. There is no Catholic, we supposed, who has not watched with anxiety the increase of material prosperity in Ireland, and feared that it might tend to blunt the edge of the faith, and mar the brightness of the virtue, of this great people. Most gratifying are the proofs to the contrary which Cardinal Wiseman's Tour has exhibited. And what true Catholic is there, but must pray, that Ireland, as the best reward of her heroic constancy to the Church, may be privileged to stand forth as an example to the world, that true faith can gain in intelligence without losing in intensity, and that to be a "child in malice" is quite consistent with being a "man in sense."\*

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### NOTICES OF BOOKS.

I.—*Remarks on a Letter in the Rambler*, for December, 1858, entitled, "The Paternity of Jansenism." By John Gillow, S.T.P. St. Cuthbert's College. London, Dublin, and Derby, Richardson and Son, 1859.

We can safely recommend this Pamphlet to our readers as one of the most masterly specimens of profound learning and conclusive reasoning which has ever fallen under our notice. The subject to which it is addressed has filled us with sorrow and dismay; for little had we anticipated the necessity for refuting grievous errors promulgated by a publication from which we had a right to expect nothing but the soundest Catholic doctrine. It has been our uniform practice to avoid as much as possible any controversies with our contemporaries; and in this sense we confined ourselves—with a reserve perhaps to be regretted—to publishing in this Journal complete popular expositions of the Doctrine of the Church on the subject of this unhappy controversy. But we can have no doubt that it was due to Catholic truth in these countries, not merely to exhibit the true, but to expose the false doctrine which had been put forth under such high auspices as were calculated to deceive the unwary; and this great work Mr. Gillow has performed with the hand of a master. It would be impossible for the limits of a notice to do justice to this

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\* 1 Cor. xiv. 20.

admirable publication, which ought to be studied in its integrity by every one who wishes to find a clear road through the perplexities with which the subject has been surrounded; and we shall confine ourselves to explaining the general purport of the Pamphlet which establishes conclusively (p. 26) that the writer of the Letter asserts "that the heretical doctrines of Jansenius in their natural sense, and as intended by their author, are contained in the writings and actual teaching of St. Augustine, not indeed as formal errors, but as propounded in good faith in that holy Father's ignorance of the doctrines of the Church. It asserts that Jansenius and his party,—men of piety and learning—the defenders of the Faith against Protestants, and the ornaments of literature and of the Church, drew their system legitimately and in perfect good faith from this its pretended natural source, and that the *Augustinus* of Jansenius is a faithful exposition of those portions of St. Augustine's writings on which their system is founded." These "shameless" assertions our author proceeds to refute (pp. 16-38) with a force of reasoning and weight of authority which we cannot sufficiently commend. The author then examines the assertion of the Letter writer, (p. 38) "we shall find that in the whole Church, from the 16th century downwards, a perpetual protest against Augustine's later theory of predestination and of the consequent resistlessness of grace and denial of free will, sometimes loudly and distinctly uttered, sometimes with more forbearance and reserve, according to the position and character of individual writers;" and in proof of such "protest" the Letter writer refers to twenty-one authorities, including some of the highest in the Church, and produces citations from their writings "as exhibiting the terms in which these writers respectively convey that protest." This startling view of the subject is no doubt calculated on its first announcement to create very serious uneasiness in even a practised theologian, still more in an ordinarily instructed layman. But our readers may be reassured; for Mr. Gillow has left no part of this question unexamined or unrefuted; for we unhesitatingly pronounce, and we do so not without some experience in sifting and weighing evidence and its results, that our author has followed the Letter writer through all and each of his twenty-one authorities, and has conclusively established that not only does not one of them support the issue

in defence of which he has cited, but that nearly every one of them is shown to be a witness, and a weighty one in opposition to the theory of the Letter writer. We have not space even for a specimen of the process by which this satisfactory result is accomplished (pp. 39-62); but we will state it in the just and true report of our author at p. 63.

“It has been shown that the Rambler’s advocate defends the assertion, ‘St. Augustine was the father of Jansenism’ in the natural meaning of that scandalous proposition. It has been proved that his attempt to justify that assertion has utterly failed; that he has rejected the only process that could have led to a conclusive result; and that the pretended arguments on which he has depended are wanting on every point. He undertook ‘to examine concerning the doctrines of St. Augustine the opinions of the most eminent amongst the older divines—of men whose judgment has ever been of peculiar weight in the Church,’—and he stated, boldly and pointedly, as the Thesis to be proved by this examination, that ‘we shall find in the whole Church, from the sixteenth century downwards, a perpetual protest against Augustine’s later theory of predestination and of the consequent resistlessness of grace and denial of free will.’ It has been seen that of the twenty-one authorities appealed to, there is not found one to support this bold proposition—not one so irreverent to the Saint, and so regardless of the deference due to the approbation of the Church, as to say that he whom the Church has in every age revered as a saint, and referred to as a faithful expounder of her doctrines on grace, has shamefully fallen into the hateful heresies afterwards condemned in the *Augustinus* of Jansenius. It has been proved that, to the grievous injury of some of the most esteemed divines of the Church, he has tampered most unfaithfully with their writings, has represented them as saying the very opposite to that which they actually do say, and has thus imputed to them the guilt of vilifying a saint, of despising the authority and outraging the sense of the Church, and of violating the feelings of every devout Catholic. It has been shown that in every case, in citing authorities he has made them support a scandalous proposition, than which nothing could be more remote from their intentions and the meaning of their words. The arguments, therefore, advanced by the writer of the Letter in support of this irreverent calumny uttered in the Rambler against a canonized Saint and Doctor of the Church, are a mere specious fiction unworthy of one who claims to be thought a divine.”

Severe words, but alas, too true! and how grievous that they should be truly applied to one whom\* we have been accustomed to honour as a high authority, and to revere as a Father in ecclesiastical literature. Earnestly do we

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\* See D. R., No. lxxxvi. Jan. 1858, Art. 7.

hope and believe that this convincing refutation by Mr. Gillow will come in aid of Divine Grace, and lead back the distinguished Letter-writer to acknowledge and atone for the great and grievous injury to our holy religion, of which he has been the unhappy instrument.

II.—*Manuale Vitæ Spiritualis continens Ludovici Blosii Opera Spiritu-  
alia*, quædam selecta, ad usum præsertim studiosæ juventutis,  
cura et studio Caroli Newsham, S. T. D., Prælat. Domestic.  
Sanctitatis Suxæ, et Collegii S. Cuthberti Præs. Cum Præfatione  
Emi et Rmi Carol. Wiseman, Archiep. Westmon. Londini:  
Richardson et Filii, 1859.

The publication of this Spiritual Manual is a most important contribution to our ecclesiastical literature, and is presented under the highest auspices, having for its selector and editor the distinguished prelate who so worthily presides over our most important college, and for its patron and introducer our illustrious Cardinal. Of the intrinsic merits and value of the book we cannot speak in adequate terms; and its execution and numerous and valuable notes, as well as its typography and getting up, are quite worthy of its contents. On these it is not our intention to dilate on this occasion, because we hope to have the opportunity of doing so on the publication of an adequate translation, which we desiderate and suggest. For we must inform our readers that this work, as well as its preface, is published in Latin; no doubt the proper vehicle for instruction intended for the learned only; whereby, however, the unlearned laity are deprived of much edification; and hence it is that we trust that there will be an early edition in English, which shall include some account of the venerable author Blosius, which we presume has been considered to be unnecessary for those learned persons to whose use the work is now confined. The Preface, by His Eminence Cardinal Wiseman, especially calls for a translation; as it contains an exposition of the contents of the various selections from the writings of Blosius, which make up the volume and constitute a whole which is entitled to rank, as his Eminence informs us, with “the Imitation,” “the Exercises of St. Ignatius,” and other great standards of spiritual writing. The preface is addressed to the alumni of St. Cuthbert’s, and contains a very touching allusion to the former relations of the President and Cardinal, as tutor and student in this

venerable college. “*Nos senescentes recedimus,*” says his Eminence, to the youthful aspirants of St. Cuthbert’s; but long may these two great prelates continue to form some of the strongest pillars and supports of the Church which they have so long adorned. The volume contains, 1, the canon of spiritual life—2, the spiritual looking glass—3, the spiritual institution, with an appendix (p. 257) from the works of Thauler and other fathers, and to which is added “the Spiritual Necklace,” with an appendix (p. 357) concerning St. Bridget and other holy women, who are frequently referred to in the work. The preface contains a lucid exposition of the contents of each of these works in its separate form, for which we must refer our readers to the original; but we will endeavour to translate its account of their combined result.

“The whole collected together,” says his Eminence, “may be said to form one work only. Not indeed that I can affirm that each of them exhibits the same clearness or simplicity of speech joined with that fervour of mind and vehemence of affection which are so peculiar to Blossius, nor that in all of them is to be discovered an equal knowledge of the interior life, or that all possess in an equal degree that clear intuition into the human heart, by which its secrets are disclosed, its vices are uncovered, its remedies are provided, and its powers and strength are exalted; neither can we say that in each of these works is to be found an equally deep and accurate perception of what we may call mystical and ascetic science, explained by intelligible learning and in a lucid method. These excellent qualities, indeed, penetrate, and pass through, and illuminate, and adorn all the writings of this venerable man.

“But the relation of these works to each other chiefly consists in this, that they seem as it were by some chain of common design to be like the members of one body, jointed and compacted into each other. Or rather like the parts of a tree which, although they are distinct, and each exercises its own separate office, nevertheless so cohere among themselves that each is necessary to the rest; thus these treatises, although written separately by the author, and by no means intended to constitute a series, nevertheless so coalesce as if they had been composed to form one complete system of discipline. Thus ‘The Canon of Spiritual Life,’ which opens the work, occupies fitly the place as it were of the root, which, in order to sustain the whole mass, is fixed deeply in the earth, and supplies an unshakeable foundation of truth. From thence springs up as it were the trunk, which is called the ‘Spiritual Looking-Glass,’ all smooth and round and lofty, seeking the skies, to be broken by no force of storms, and twisted by no vehemence of whirlwinds. And

as to this goodly tree there is superadded a summit of verdant and leafy branches, beautified with flowers or bending down with fruit; so by way of a crown is added this Spiritual Institution, which supplies the sweet and most pleasant discipline of the higher and more interior life, and leads us nearer to celestial things. And thus it is that he who shall have strength to run the whole of this course will at length attain the wished-for goal, even from the depths of his prison, so as happily to attain to the very height of Christian perfection."

We are quite sure that our very imperfect attempt to translate a fragment of this beautiful preface will induce all our readers to join with us in the wish that it should be fully and perfectly rendered by its author.

III.—*Lectures and Essays on University Subjects*, by John H. Newman, D. D. of the Oratory. London: Longman, Brown and Co. 1859.

Not the least of the services which this eminent divine, has rendered to the Church is the character which his presidency has impressed on the Catholic University, in the success of which no Catholic can fail to take the deepest interest. It has therefore been most wise to give the utmost publicity to the literary efforts which have been made in its support. The volume at the head of this notice will by no means lessen the literary reputation of the writer, or of his university; although the, perhaps necessarily, fragmentary character of the series tends to give it a disjointed appearance. There are ten Lectures, or Essays, the delivery of which ranges from 1854 to the end of 1858. The first (1854) is "Christianity and Letters," and explains the phenomenon of the ascendancy of the Faculty of Arts in all our older universities over those of Theology, Medicine, and Law—*M.A.* is the adjunct to a thousand names, where you will find one with that of *D.D.*, *B.D.*, *S.T.D.*, *S.T.P.*, *M.D.*, or *B.M.*, or *L.L.D.* The "three black graces, Law, Physic, and Divinity," in our English Universities, at least, are clearly as regards this special use of letters in an exceptional condition even among the clergy, who, as a body, prefer to confine themselves to degrees in arts to the abandonment of those of their special vocation. We remember a remarkable illustration of this tendency in the greatest college of Cambridge, where by the statutes a preference in the distribution of its Church Patronage is reserved to the holders of the degrees of *B.D.*, and *D.D.*; but nevertheless one only of



its numerous fellows had attained the degree of B.D., and as such put forward a claim to be presented to a large college living, over his senior, who was M.A. only. Fortunately for the latter the remnant of the ancient prerogative of the Pope, now vested as to England in the Crown and Archbishop of Canterbury presented a means of escape; for the M.A. became, *per saltum*, a D.D., and was thereby enabled to defeat the "dodge" of his astute and ungenerous rival. This Lecture explains with great learning and clearness the origin of the faculty of Art, as distinct from the special functions of Law, Divinity, and Medicine. It is shown to be the representative of civilization as placed in opposition to religious and scientific instruction; and no one who is really conversant with the subject can doubt the absolute expediency of making a classical education a substantial and main element in any academical system which is to exercise a lasting influence over a Christian society. The 2nd Lecture (1858) which (as well as the first,) was read in the School of Philosophy and Letters, in Dublin, is a splendid eulogium on the value and necessity for the cultivation of Literature, which is summed up (p. 65) in the following eloquent passage—

"If then the power of speech is as great as any that can be named—if the origin of language is by many philosophers even considered to be nothing short of divine,—if by means of words the secrets of the heart are brought to light, pain of soul is relieved, hidden grief is carried off, sympathy conveyed, counsel imparted, experience recorded, and wisdom perpetuated,—if by great authors the many are drawn into unity, national character is fixed, a people speaks, the past and the future, the East and the West are brought into communication with each other,—if such men are in a word the spokesmen and prophets of the human family, it will not answer to make light of literature or to neglect its study; rather we may be sure that in proportion as we master it in whatever language, and imbibe its spirit, we shall ourselves become in our own measure the ministers of like benefits to those,—though they may be few, though they may be in the obscurer walks of life,—who are united to us by social ties, and are within the sphere of our personal influence."

Lecture three (1854-8) is "on Catholic Literature in the English Tongue," and serves most excellently to illustrate the necessity of cultivating all available means for Catholicising many portions of the literature of England, which, under the long reign of Protestantism, has con-



stantly presented unfair and uncatholic views on a great variety of most important subjects. We regret that our limits prevent our transcribing any portion of this very able argument, in the success of which all those who are concerned with our periodical literature must take an especial interest. Lecture Four (1854-6) addresses itself to Grammar, Composition, Latin, Writing, and General Christian knowledge, under the head of "Elementary Studies," and exhibits a profound knowledge of the great principles by which alone a thoroughly good education can be secured—the cultivation of accurate rather than extensive knowledge. The lecture is full of amusement, in the graphic form of an examination of a student, question and answer, and of an illustrative correspondence, embracing letters of the student, his father, the examiner, and a critical friend. In this age of "competitive examinations" every word of this lecture is invaluable. It establishes conclusively how easy it is by very simple questions to get to the bottom of the pretensions of the candidate, who, if self-sufficient, may easily fail to find out how completely he has exposed his ignorance, but who, if diffident, though well-informed, is sure to make the necessary impression on the examiner. We trust that in the experiments now in progress for the public service, and in those which are in contemplation in the great profession of the law, this rule of simplicity in the questions will be rigidly adhered to as being the most just, to the most important class of students from whom a minimum of proficiency is to be exacted.

We must content ourselves with an enumeration of the titles of the remaining lectures. "University preaching, 1855," "Christianity and Physical Science, 1855," "Christianity and Scientific investigation, 1855," "A Form of Infidelity of the Day, 1854," "Discipline of Mind, 1858," and, "Christianity and Medical Science, 1858." The fifth lecture, "University Preaching," contains principles and illustrations which are adapted to preaching in every place and style, and may well be recommended to the careful study of all our younger divines, and especially of those among them who fancy that they have natural gifts of eloquence and reasoning sufficient to set off their morality and theology without any special preparation or study as to language or matter. The tenth lecture on "Christianity and Medical Science" contains many startling truths, worthy of all consideration

on a question of vital importance under the most anxious circumstances in which any of us can be placed, and ought to be carefully studied by the divine, the physician, and the nurse, and by all who have any special attendance on sickness. It is one of the happy circumstances of our age that so valuable a work as this of Dr. Newman's can be brought within the reach of purchasers in every class of society, and that in a form which combines a very legible type, with a very pleasant appearance; no small desiderata in the selection of a library of useful and permanent knowledge.

IV.—*Hymnus S. Casimiri.* In honorem Deiparæ Virginis Mariæ. The hymn of St. Casimir in honour of the Blessed Virgin Mary. Translated in the metre of the original, By H. E. C. W. London: Burns and Lambert, 1859.

This little work owes its origin to the publication in 1856, of an edition of this well known hymn in eight languages, in the metre of the original, to which Cardinal Wiseman was requested to add a ninth in English, one in Portuguese being promised to be procured by the queen of Portugal. The Cardinal has translated the sixty verses of which it consists, with great fidelity and accuracy of rhythm, and for the most part with remarkable elegance, but, nevertheless, so as occasionally, almost of necessity, to exhibit redundancies and symptoms of translationism. We will transcribe the last five stanzas (56-60) as forming in themselves a complete hymn, and at the same time giving an average specimen of this new proof of the variety of the gifts of the distinguished translator. The music for the hymn, (one or three voices, ad libitum,) will be found at the end of the volume.

56

“ Fac me mitem,  
Pelle litem,  
Compesce lasciviam.  
Contra crimen  
Da munimen  
Et mentis constantiam.

57

“ Non me liget,  
Nec fatiget  
Sæculi cupiditas;  
Quæ indurat  
Et obscurat  
Mentes sibi subditas.

56.

“ Oh! make me mild,  
And undefiled,  
Avoiding strife and quarrel;  
Constant and strong  
To do no wrong,  
Or yield to thought immoral.

57.

“ That neither bound  
Nor bowed and ground,  
I be by greed of riches;  
Which hearts o'erthrown  
Turns quite to stone,  
Or blinding sore bewitches,

58.

"Nunquam ira,  
Nunquam dira  
Me vincat elatio :  
Quæ multorum  
Fit malorum  
Frequenter occasio.

59.

"Ora Deum  
Ut cor meum  
Sua servet gratia ;  
Ne antiquus  
Inimicus  
Seminet zizania.

60.

"Da levamen  
Et juvamen  
Tuum illis jugiter,  
Tua festa  
Sive gesta  
Qui colunt alacriter.  
*Ave Maria.*"

58.

"Of vengeful ire  
Deed nor desire  
Permitted be to enthrall us ;  
Nor proud disdain,  
Oft in whose train  
A host of evils follows.

59.

"Pray God to shield  
My soul's poor field,  
Nor graces weigh nor number ;  
For the ancient foe  
His tares will sow,  
If He, our Watchman, slumber.

60.

"Oh grant relief  
From toil and grief  
To all who persevereingly  
Thy feasts observe,  
Thy deeds preserve  
In memory's depths endear-  
ingly."

V.—*A Tour in Dalmatia, Albania, and Montenegro, with an Historical Sketch of the Republic of Ragusa, from the earliest times down to its final fall.* By W. F. Wingfield, M.A. Oxon ; M.D. Pisan. London : Bentley, 1859.

The author of this slight but entertaining volume was qualified for writing it by a residence of several years in Southern Austria, and by the possession of a quick and lively perception and a very agreeable pen. In the autumn of 1853 he crossed the Adriatic from Fiume to Zara, the present provincial Austrian capital of Dalmatia. His steam-packet adventures left him leisure to describe Fiume and Segna, with its Uskoks, and Arbe "Caput mundi, Roma secundi," and Veglia, the birthplace of Pope Gregory the Tenth, of the illustrious family of Frangipani, and also of the notorious Antonio De Dominis, of whose strange adventures there is a short but interesting sketch. Landed in Dalmatia, our author proceeds with an outline of its history up to its appropriation to Austria in 1797, interspersing it with pleasant anecdotes and notices, such as the question respecting the birthplace of St. Jerome, the sarcophagus and relics of St. Simeon the prophet, St. Elizabeth of

Hungary, and the French soldier, whose arm was struck with paralysis while attempting to plunder the shrine, and who on desisting was restored to vigour by the intercession of the saint, the "*Gonfaloniere*" of Zara. Another steamer conveys our author from Zara to Sebeniko, and pleasantly does he describe his voyage and his visit to the celebrated Falls of Kerka, which he accomplishes by exerting no small energy and determination, and of which he gives a most animated description. When he reached the river Kerka

"The sounds of the Angelus Bell came soft and silvery across the water, and the deepening shadows of evening advanced apace as we seated ourselves somewhat less fresh than when we left Sebeniko upon some great stones by the water's edge, awaiting the advent of the ferry-boat, of which at present there were no traces visible on the opposite side, about a mile distant. A group of girls and women, in their pretty characteristic dresses, had come up, and were waiting like ourselves to get across, while close to the shore on our left a man in a boat with a shoulder of mutton sail, was filling a hogs-head from skins of wine which three or four asses had brought to this their place of embarkation for Skardona. He offered us a cup, which we accepted with gratitude, after a walk of ten miles under a broiling sun, and found it an excellent sort of red '*Maraschina*,' which bore witness that a rocky soil does not injure the quality of the wine." (p. 73.)

The men, women, and donkeys manage to get across, the latter "hailed in tumultuously by tails and ears, all lending a hand amidst deafening shouts of laughter." The author gets back to Sebeniko just in time to catch his steamer, which conveys him to Spalato, with its palace of Diocletian and its splendid cathedral. From thence he visited the recently excavated ruins of Salonæ, with its Cyclopian remains and other vestiges of imperial grandeur. Leaving Spalato, and passing the island of Meleda, the scene, as some say, of the shipwreck of St. Paul, our traveller lands at Gravosa, on his way to Ragusa, whose commercial ruin was the work, unhappily the necessary work, of "jolly British tars," in 1809, the traces of whose fiery onslaught can even now be traced in four out of five of the houses in its suburbs. It has now 5,000—it had in the reign of our Henry the Eighth 40,000 inhabitants! The cathedral contains the relics of St. Blaise, to whom it is dedicated, and the entire skeleton of St. Silvanus, presented by his Holiness Pius IX., together with a wax-figure of the saint, "the beauty of which will be understood

by those who know the perfection to which Italian wax-work has been brought." Before we quit Ragusa we must refer our readers to the separate portion of the work which contains a very full and we believe accurate outline of the history of that ancient and illustrious but ill-fated rival of Venice. Our traveller quits his steamer at Cattaro,

"Where everything looks as sombre as if it were intended to harmonize with those deep shadows which the surrounding mountains throw around. The men wear dark coloured brown or chocolate breeches, and mantles which, if white, are yet edged with black. Their cap is red, in this alone distinguished from the Montenegrins, who frequent Cattaro in large numbers, especially on market days, and mix no livelier hue with the black and (*would be*) white colours of their costume. If the Cattarans be descended from the Avars, a race akin to Turks and Magyars, they have forgotten their original tongue, only the usual languages of this coast being understood here, viz., German, Italian, and their own dialect of Slave. They were long under Venetian rule, but are now Austrian subjects."—p. 115.

They have in Turkey, says Lord Bacon, in his *Sylva Sylvarum*, "a drink called coffee, made of a berry of the same name, as black as soot, and of a strong scent, but not aromatic, which they take, beaten into powder, in water, as hot as they can drink it; and they take it, and sit at it in their coffee-houses, which are like our taverns." "This drink," adds the great philosopher, "comforteth the brain and heart, and helpeth *digestion*." Thus ancient was the use of coffee and cafés, which, however, have now a more extended use.

"Austrians breakfast at their café, read their paper there, there play at billiards, there take their coffee after dinner, and their ice a little later; and last, but not least, there smoke their pipes, while they play at cards, and talk of everything except religion and politics. In short all but dining and sleeping, they live there, and especially the military, whose ordinary day life seems to be composed of three constituents, 'dinner, drill, and café.'"—p. 122.

Our author might now add a fourth, "hard fighting."

From Cattaro our traveller makes an incursion into the Turkish dominions, and is introduced to Selim Bey, the Turkish authority at Antivari, whom he finds

"Sitting in a small divan, surrounded with sofas, and shrouded from the public gaze by curtains. He was a fat, red-looking man, rather above the middle height, with a good natured, but thoroughly uneducated expression of face, and the manner of one who, though not unamiable, would be apt to be provoked if thwarted."—p. 143.

This impression turns out to be well founded.

"He had lately divorced his wife, the mother of the son I saw with him, for no fault whatever, real or pretended; and on her (the vice-Consul's wife,) interceding with him for the unhappy lady, he replied: 'To please you, Madam, I will marry another as soon as you like; but nothing shall ever induce me to receive back the one I have divorced.' The Chaplain also, who had been some years on the mission, drew an awful picture of the immorality of the Turks, for if such be their treatment of women, who are of families on equality with themselves, it may be imagined how they use their inferiors."—p. 145.

The author proceeds to exemplify the corrupt administration of justice under the Turkish rule, which he pronounces to be even worse than their domestic morality. And surely no real friend to the interests of mankind can fail to look forward with earnest anxiety to the termination of a rule which outrages all the best interests of mankind, and could not possibly be replaced without being improved. On visiting Scutari, the principal seat of the Turkish authority in Dalmatia, the author was enabled to obtain a permission to visit Catinja, the capital of Montenegro, as "nothing should be refused to an Englishman." This was to be accomplished by crossing the lake of Scutari in a *Londra* (boat), which conveyed a load of charcoal, and eight Turkish rowers; and pleasant is the description of the voyage. On landing at Lessandrovo he is placed under the charge of an African, a Moro, for delivery to the enemy, the Montenegrins, and accordingly this poor Moro, after refusing any reward, hands him over to a strange guard of neutral Montenegrins—two young women, who had arrived in a boat laden with fish, brushwood, and provender. The arrangements for his transport were soon concluded.

"The two young women chose the smallest of the boats, a little narrow skiff, both ends alike, and half full of water, which moreover demanded the utmost preciseness of 'trimming' to avoid a capsize. In this the black laid some big stones, on the stones my bag, and on the bag he deposited me high and dry, and then, the women being perched, each with a little oar, fore and aft, he wished me 'God speed' and shoved us off. I thanked him much, and indeed parted with the poor fellow with regret under the circumstances, not expecting to meet anything half so honest where I was going, or indeed often elsewhere. As to the women, the one in the bow rowed, the other in the stern steered; they were young and slight-made persons, but of immense prowess, for the boat flew along, cleaving the water like a light Thames wherry, yet there was only

one little oar employed in the work of progression, for the second contented herself with keeping the head of the boat straight. They were, as I said, young; they were also good-looking, with small regular Grecian features; the one who rowed could not have been eighteen; the other, five or six years older, would have been eminently handsome had it not been for a fierce Montenegrine expression, much enhanced, perhaps produced, by numerous scratches on one cheek, which looked as if she was not unused to fight the battles of her country, or perhaps occasionally engage in a private duello of her own, to keep herself in practice during times of public peace.

“However this might be, their behaviour was highly decorous on the present occasion; yet what a striking contrast to that of the Turks I travelled with a few days since! such a free unconcerned bearing as they sat talking to one another across the boat! It brought forcibly before one the totally different position of the *women* in the two countries. Their dress was a simple white flowing ‘camicia,’ girded with the characteristic black sash of the Monte Nero, in addition to which the elder wore a broad brass girdle, set full of large red cornelians, looking like a number of old-fashioned seals. Though both were married, as I afterwards learned, the elder played the part of a careful chaperon to the younger, reminding her as often as her dress became the least disarranged with the exertion of rowing, which, to be sure, was not unnecessary, for apparently beneath the aforesaid white robe there were no extra petticoats. Such, then, was my cortège.” (p. 182.)

The adventures of our traveller in the domains of Prince Daniel, into which he is safely introduced by his fair escort, are told very amusingly, but are too long for transcription. He visits the capital and sees the prince, “an ordinary-looking dark young man of middle stature, about twenty-six years of age.” For his descriptions of Montenegro, its capital, and people, we must refer to the work itself, which sums up the Montenegrine question as follows:—

“One may wish that they may some day find themselves the subjects of a humanizing and Christian government, strong enough to put an end to their wild revenges and predatory habits, and benevolent enough to provide for their wants, moral and physical, to promote their civilization, and in a word, to care for all their best interests. There seems to be no reason whatever why, if properly managed, they should not turn out just as well as the Uskoks, who were at least quite as ‘mauvais sujets’ for their time of day, and in all respects as difficult a problem for the seventeenth as the Montenegrins for the nineteenth century.” (p. 217.)

Here we take our leave of an author whose book is written with a great spirit of fairness, and may well be recommended to those who are partial to this species of literature.



VI.—*The Catholic Youth's Magazine*. Published with the approbation of the Most Rev. the Archbishops of Baltimore and Cincinnati. Baltimore: Murphy and Co., 1858.

The first volume of this very useful and cheap periodical comprises twelve monthly numbers, commencing in September, 1857, and embracing upwards of 120 subjects of very great variety and interest, with some sixty illustrations which are more than respectable. No inconsiderable number of the subjects of the work is strictly religious, but by far the majority are of an entertaining character, but in a form which uniformly tends to promote the great object of the work, "The inculcation of a social and healthful morality, blending the useful with the entertaining, and embracing at the same time such lessons of Art, Science, and History, as will serve to attract, instruct, and expand the youthful mind with those higher lessons which give a charm to virtue and religion." Pref. p. 2. If such a work is a desideratum in America, by way of protection for her children against the strenuous efforts which are there made to pervert the youthful mind, no one can doubt that among ourselves it is equally necessary to possess some such work which we can call our own, and which will divert our children from the allurements of the numerous Protestant periodicals of the day, which if not all bad, are at least, except in very rare instances, little calculated to edify the Catholic child. It is indeed a matter of congratulation that our domestic literature is, in this respect at least, on the mend; but every parent and teacher will rejoice to have the additional advantage of so cheap and so well got up a work as the "*Catholic Youth's Magazine*." We observe that the copy with which we have been furnished does not specify the precise cost or agency for the sale of the work, but we presume that it can be obtained from the Catholic Publishing Society and other Catholic booksellers.

VII.—*Zeal, in the work of the Ministry*, translated from L'Abbé Dubois. London: T. C. Newby, 1859.

*Zeal*: a comprehensive title, and the book corresponds with it, being, not so much an exhortation to zeal in the service of God, the existence of which is pre-supposed, as a series of minute and practical directions for bringing every action of life, almost every movement of the body under its directing influence. Certainly no one could be better qualified than the Abbé Dubois to give

such instructions; he describes himself as having filled the stations successively, of Director of a religious community, and of a large school of young girls; Curate of an important parish; Superior of a society of diocesan missionaries; Curé (by which title we should throughout understand the rector,) of a parish at once half town, half country; Superior of a Grand Séminaire, with the double title of Vicar General, and Member of the Episcopal Council. We need scarcely say that the widely gathered experiences of a good and able man, matured and enforced by the same thoroughly charitable zeal which he advocates, must be most valuable; and so they are; all classes may learn from them, although addressed exclusively to priests. The author has not feared to enter into the most minute details of all the relations into which a priest may be brought with his fellow-priests, his parishioners, the great people of his parish, the poor, the schools, even the servants. Many of his instructions are so self-evident, one would wonder to find them seriously given, were it not too true that the obvious duties of daily life are often overlooked. A more serious objection is, we think, that too much stress is laid upon the necessity of seeming. The priest is advised to procure a reputation for sanctity greater than he really possesses; true, it is only in order to produce a stronger effect upon the minds of his people. A means in the hands of a good man desirous only of good; still it reminds us a little of the style of morals of a seminary for young ladies; nor can we imagine a man of action and individuality of character fettered by regulations such as the following:—"A priest, then, should never look about him with an inquisitive and wandering air, nor fix his eyes upon the persons whom he meets, especially upon those of the opposite sex. Must he then keep his eyes upon the ground, so as to appear almost closed? No, that would be affected. The wisest rule that has been proposed in this respect is to direct the eyes downwards to a point four or five paces in advance. Should the priest think proper, from time to time, to raise them, he must try to give them that expression of sweetness, candour, and modesty, so pleasing to every one, because it reflects the serenity of a well-regulated mind." (p. 27.) We do not much fancy this "calling up a look," which, as we have said, seems to recur rather oftener than would be necessary, on account of a due regard to appearances. We must however suppose that our criticism is

hypercritical, for the work has been highly approved, and has reached a fifth edition with apparently an undiminished sale.

VIII.—*Public Lectures*, delivered before the Catholic University of Ireland, on some Subjects of Ancient and Modern History, in the years 1856, 1857, and 1858, by James Burton Robertson, Esq., Professor of “Modern History,” translator of “F. Schlegel’s Philosophy of History,” and of “Moehler’s Symbolism.” London, Catholic Publishing Society, 1859.

Professor Robertson was one of the six who assisted at the foundation of this Journal, and has throughout its career been an important and valuable contributor to its pages; and our only regret at his transfer to the chair of history in the Catholic University has been occasioned by its inroad into his leisure, whereby he has become the less able to assist us in the conduct of our Review. We therefore naturally take a deep interest in the value of the fruits of his present very important career; and we have great satisfaction in recommending them to the earnest attention of our readers, who will recognize in them the same powers which have been exhibited in his former very valuable contributions to Catholic Literature in some of its most important branches. The present work is recommended by its cheap and compendious form, which places it within the reach of all; and still more by the pleasing and simple style of the Lectures, which renders them intelligible to every class of readers.

If we recollect aright, the Professor, in his earliest connection with the Catholic University, had the charge of the department of Geography, which circumstance doubtless will explain the devotion of the first Lecture to that subject in its connection with History. The preface informs us that the Lectures which are now published are to be considered as specimens only, and parts of what will doubtless in the end be formed into a complete and connected series, which it is to be hoped will, in a suitable form, be brought before the public; at least if the present experiment should succeed, which we sincerely hope will be the case. But, nevertheless, this state of circumstances of necessity involves a fragmentary character in the published Lectures. They are divided into “Ancient History” and “Modern History.” The former including the Lecture on Geography as connected with History, extends to four of the Lectures, two of which (the 2nd and 3rd,) embrace Phœnicia and its Colonies, and especially

Carthage, and the 4th addresses itself to Ancient Egypt ; and in these Lectures will be found a very able summary of these most interesting topics, in which our author has availed himself of a great mass of authority, including the recent edition of Herodotus, to which we have on several occasions drawn the attention of our readers. The whole account of Carthage and its constitution and affairs is full of interest, and to us its reference to the literature of Carthage has much novelty. The "Modern History" also comprises the four remaining Lectures, (5-8) of which the fifth embraces Spain ; the sixth (which is a sort of interloper, as it was not delivered before the University,) expounds the Theory and History of the British Constitution, as compared with the old European Monarchy and the Modern Representative System ; and the 7th and 8th are devoted to the moral and political causes of the old French Revolution ; and there are added three appendices, two in reference to Egypt, and one to the recent politics of France. These Lectures exhibit the same high qualities as the "ancient History," but we are not sure that we should not, on a close examination, find ourselves dissenting from some of our author's political views and theories, which carry, as we think, the conservative principle beyond what we could assent to. The mass, however, of valuable information which has been collected, and the order and clearness with which it is developed, and the general candour and fairness of the narrative appear to us entitled to very high praise. In the Lecture on Spain (p. 185) will be found a reference to the author's very able Article in this Journal, (Oct. 1852) on the "Life and Times of Cardinal Ximenes," in which the important question of the real History of the Spanish Inquisition was thoroughly examined, and the popular impressions refuted on the unquestionable authority of the German Theologian, Dr. Hefele, who had the benefit of original and most authentic information. On all the topics which these Lectures embrace, there will be found a great deal which will be new to all but the most gifted of our readers ; and none of them can fail to be benefited by a perusal.

IX.—*Month of the Sacred Heart of Jesus*, translated from the French by Rev. George Tickell, S. J. London, Dublin, and Derby, Richardson and Son, 1859.

A work which has the approbation of nine Bishops, headed by the Cardinal ; which has reached in the original an eighteenth edition, while the translation has gone

through two, needs, assuredly, no further recommendation. We have read these meditations, and found them practical in form, and most sweet and fervent in the devotion which breathes through them ; it is a book which we rejoice to possess, and we think our readers would agree with us.

X.—*Ceremonial according to the Roman Rite*, translated from the Italian of Joseph Baldeschi, Master of the Ceremonies of the Basilica of St. Peter's at Rome. By the Rev. J. D. Hilarius Dale, Second Edition. London : Catholic Publishing Society, 1859.

The issue of a second edition of this very useful work (which is dedicated to and approved by His Eminence Cardinal Wiseman) is abundant evidence of the very satisfactory increase of attention to the important subject of our ecclesiastical ceremonies. The occasion has enabled the Rev. Author, as he informs us, to correct some defects and errors, and to make some important additions. It will be foreign to our purpose to enter into any explanation of its contents, which chiefly address themselves to the clergy, though they contain much information which every instructed layman ought to possess. The appendix, however, (which contains chapters on the Forty Hours Adoration, the Asperges, the Benediction, with the most Holy Sacrament, the Benediction with the Ciborium, the manner of serving a Low Mass, and the manner of giving Holy Communion out of Mass,) as much concerns the laity as the clergy, and we therefore can, with great propriety, recommend this work to all our readers.

XI.—1. *The Catholic Offering ; Counsels to the Young on their leaving School and entering into the world*, by a Member of the Ursuline Community, Black Rock, Cork. Dublin : Duffy, 1859.

2.—*The Spirit of the Holy Child Jesus, or Christian Childhood*, by M. J. Blaulo, Professor in the Seminary of St. Sulpice. Translated from the French by a Member of the Community of Sisters Oblates of Mary Immaculate, Leeds. London : Richardson and Son, 1858.

In our notice of an American contribution to Catholic Literature, for the benefit of our children, we have expressed our satisfaction at the rapid improvement of this section of our domestic literature : our remark is well borne out by the two works, to which we now draw attention, and which hold forth most valuable support for the guidance of Catholic childhood and youth, and which admirably work in with the lighter instruction which has

the same aim and end. Both these useful works are contributed by cloistered ladies, and bear abundant testimony to the value which we so justly attribute to our conventual institutions. The works, however, by no means address themselves to our female children exclusively, but will be found to afford the soundest instruction and edification for all our children of whatever age or progress in knowledge.

XII.—*Gems from Catholic Poets*, with a Biographical and Literary introduction, by James Burke, Esq., A. B. Barrister at Law. London : Catholic Publishing Society, 1859.

We cannot say that we are admirers of “gems;” nor do we think that it is desirable to cultivate exclusiveness of any kind; least of all in such a question as that of poetry, which belongs to all classes and sections. In the present case, however, a collection which is taken exclusively from poets who are Catholics, is no doubt accounted for by the fact that this publication is a part of the series of “the instructive and entertaining library,” a work to which we wish every possible success; and we must admit that the contents of the volume qualify it for admission on the score as well of instruction as of entertainment; and the later portion of the work opens to us a considerable field of poetry, with which we were unacquainted, and which is well worthy of cultivation. We presume that the price, one shilling, at which this volume is published, precludes a higher class of illustration, by way of biography, or of portraiture, than the reader will encounter. The former is, of necessity, very slight; and, as to the latter, which includes Chaucer, Dryden, Pope, Moore, and Griffin, we cannot speak with any approbation. The two latter, indeed, would we suspect if alive, have preferred the fearful gibbeting of photography to the pertness and commonplace of which they are here exhibited as types. As regards Pope, Dryden, and Moore, we question the expediency of their introduction into such a collection as the present, where they are, and perhaps of necessity, represented for the most part by passages which are familiar to every reader as his Pater Noster. It seems scarcely necessary to have transcribed “The Creator Spirit,” “Ye Nymphs of Solyma,” “The Dying Christian” (p. 99) or “Sound the Loud Timbrel.” But the case is very different as to the other older, and still more as to the numerous late writers, of whom specimens will be found, and which include names of which the memory



is most sweet and pleasant, Banim, and Gerald Griffin; and names which we trust will long continue to illustrate and adorn our Catholic literature; Murray, De Vere, Rock, Duffy, Madden, and many others, the whole collection including not less than thirty-one writers. Among so many candidates it would be invidious for us to select, and we recommend our readers to do so for themselves by becoming subscribers to this very useful and agreeable series.

XIII.—*A Paper on the subject of Burns' Pistols*, Read at a Meeting of the Society of Scottish Antiquaries, on Tuesday, the 19th day of April, 1859. By the Right Rev. Bishop Gillis. Edinburgh, Marsh and Beattie, 1859.

This small publication is very interesting, as showing how easily may arise misconceptions as to matters of fact, and how great must be the pains taken in sifting evidence where the interests of truth are at stake. Bishop Gillis has performed this duty in a manner to illustrate his well-known clearness of head and determination of mind. The original pistols of the Poet Burns had been presented to the Society, when, in February last their genuineness was impugned by the Illustrated London News, on the ground that the pistols in question had been purchased by Allan Cunningham, and are now in his widow's possession. Both sides agreed that the Poet presented them shortly before his death, to his kind physician, Dr. Maxwell of Dumfries, upwards of thirty-five years ago. It seems also clear that when the Doctor, many years afterwards left Dumfries, a brace of pistols was sold at the public sale of his effects, at Dumfries; and it is clearly made out that they ultimately became the property of Allan Cunningham. But Bishop Gillis, by most irrefragable evidence has established that the pistols so sold were not those of Burns, but were other pistols which the Doctor had purchased in 1813, and which at the sale became the property of a sort of poacher, for a few shillings, who palmed them off on Allan Cunningham for five pounds, as the genuine pistols of the Poet, which, however, had been taken by the Doctor from Dumfries, and were in his possession as relics when he died, in the arms of the Bishop. It is not a little remarkable that his Lordship should have been able, after so great a lapse of time, to collect so large a body of evidence in support of his case. His marshalling and sifting of the evidence are very admirable, and well warrant the publication of it at the request of the Society. The pamphlet



has the additional merit of relieving the character of Dr. Maxwell from some unjust aspersions, and contains an original letter from the Poet to Bishop Geddes, which is most characteristic evidence in refutation of the assertion that the Poet's mind was beyond the reach of religious impressions, and that he was a scoffer at religion. We regret our inability to transcribe this letter, or to justify by any extracts our appreciation of the Bishop's able argument.

XIV.—*A Note to the Cornwallis Papers*, embracing, with other Revelations, a Narrative of the Extraordinary Career of Francis Higgins. By Wm. John Fitzpatrick. Dublin: Kelly, 1859.

The able work of Mr. Ross, which we recently noticed, disclosed, as our readers will recollect, the name of the betrayer of Lord Edward Fitzgerald, and the amount of his reward, £1000, and a pension of £300 a-year. The curious pamphlet which is placed at the head of this notice, devotes its 100 pages to gibbeting the memory of this hateful personage, Francis Higgins, by tracing his strange career, and carrying him on to his death, and hypocritical funeral monument. Short was the enjoyment of the fruits of his villany, as he died suddenly very soon after he had earned his pension. It is not however symptomatic of the accuracy of our author that he describes (p. 3) the victim as "the Patriot *Peer*." We trust in other respects his details are more to be relied on. The awful depth of corruption and rascality which the Cornwallis Papers has disclosed as to the affairs of Ireland, may well form, as we hope it will, the subject of a further notice in this Journal, when we shall avail ourselves of the singular and important mass of information which Mr. Fitzgerald has placed at our disposal.

XV.—*Religious Intolerance, or a Statement of Facts, with reference to the appointment of a Matron to the Crichton Royal Institution, Dumfries*. By the Honourable Marmaduke Maxwell. Edinburgh: Marsh and Beattie, 1859.

The age of bigotry has certainly not passed away, as we may readily establish by a perusal of the scandalous details to which this pamphlet has given publicity. Mr. Maxwell has proved, beyond a doubt, that Mrs. Thomson was admirably qualified to perform the duties of Matron to the Institution; that she was duly elected to the office, and performed its duties most admirably; and that the establishment was not founded on any exclusive religious basis; and had employed Catholics as nurses, without any

objection. Yet, in the face of facts such as these, Mrs. Thomson, on becoming a Catholic, was summarily ejected from her office. It will naturally be asked at whose instance she received this usage? Was it from the subscribers? or patrons? or trustees? far from it. There was a "Remonstrance and Protest of the Undersigned" (p. 32 &c.) which is, in its way, a curious specimen of bigoted impertinence. Not one of the signers pretended to have given a shilling to the Institution, or to have had any other right to interfere in its affairs than their sheer hatred of Catholicism. But this bond, it will not surprise our readers to find, was powerful enough, not only *pro hac vice*, to heal the Free Kirk division, but to combine with them Protestant episcopalians, mathematical and law professors, physicians, surgeons, and one admiral! There are fifty signatures of which more than half are ministers of one kind or another, including the Dean of Edinburgh; and *proh pudor!* not a small portion consists of laymen, from whom better things might have been hoped. Were it not that their whole domestic history bears witness to the grievous intolerance of the Scottish character, we should have read this document with unfeigned astonishment, and should have utterly disbelieved the possibility of its effecting its object. But our readers may recollect our notice of the "Domestic Annals" by Mr. Chambers, and need only be assured that the enlightened nineteenth century, is not one whit in substance, less intolerant, than its benighted predecessors. The impertinence of the interference which is displayed, is so completely alien to the notions and habits of England and Ireland, that we should be at a loss to account for it even on the mere score of good manners, were we not aware that the "Ministers" claim an unlimited right to interfere; as for instance, two of their body entered their "remonstrance and protest" against the enormity of which the Lord Justice Clerk was guilty in inviting a clerical friend of our own to dine with him, in Edinburgh, when however, we rejoice to add that for once their impertinence received its just rebuke. Mr. Maxwell has done well to give publicity to the scandalous facts of this case, and has acted in accordance with his high character in terminating his connexion as a trustee, with an Institution which could allow itself to repudiate the first principles of Christian liberality and fairness in its management.

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